Neutral Citation Number: [2024] EWHC 1276 (Ch)

Case No: BL-2020-001003

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
BUSINESS LIST (ChD)

Rolls Building
Fetter Lane
London, EC4A 1NL

Friday, 24 May 2024

Before :

MR JUSTICE FANCOURT

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Between :

THE FINANCIAL CONDUCT AUTHORITY	**Claimant**
- and -	
(1) LONDON PROPERTY INVESTMENTS (U.K.) LIMITED (t/a LPI Emergency Property Finance) **(2) NPI HOLDINGS LIMITED** **(3) TONY STEVENS** **(4) DANIEL STEVENS**	**Defendants**

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Mark Fell KC (instructed by the Claimant's Legal Group) for the **Claimant**
None of the Defendants appeared or was represented

Hearing dates: 11-14 March 2024

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APPROVED JUDGMENT

(draft judgment sent out: 20 May 2024)

This judgment was handed down via remotely at 10.00 am on 24 May 2024 by circulation to the parties or their representatives and by release to the National Archives.

Mr Justice Fancourt:

Introduction

1. This is a judgment on a trial that took place before me, following an earlier judgment of Mr Recorder Richard Smith (as he then was) sitting as a Judge of the Chancery Division that was handed down on 11 November 2022 ([2022] EWHC 2862 (Ch)) ("the First Judgment").

2. The First Judgment was given on the FCA's claim against two limited companies, the First and Second Defendants (hereafter "LPI" and "NPI"), and those who controlled them, the Third and Fourth Defendants (hereafter "T Stevens" and "D Stevens"), in relation to contraventions by LPI and NPI of the general prohibition in the Financial Services and Markets Act 2000 ("the Act"). The contraventions were carrying on regulated activities without being either authorised to do so or exempt, and T Stevens and D Stevens were found to have been knowingly concerned in those contraventions by LPI and NPI. The two individual Defendants are father and son respectively.

3. The proceedings were brought by the FCA under statutory powers in respect of the cases of 45 sets of consumers ("the Original Individuals"), who had all suffered losses as a result of dealings with the Defendants.

4. The Recorder granted: declaratory relief regarding the extent of the contraventions in those 45 cases and as to the unenforceability of various agreements entered into by the Original Individuals with LPI and NPI; injunctive relief; and a remedial order made against LPI under s.380(2) of the Act in relation to restrictions in favour of LPI that had been and remained registered at HM Land Registry against some of the Original Individuals' residential property titles. The question of what further relief by way of restitution order (essentially, compensation) or remedial order (essentially undoing or mitigating the effect of a transaction) should be made in each of those cases was adjourned to be dealt with at the trial before me.

5. In addition, at this trial, the cases of a further 26 sets of consumers ("the Additional Individuals") were presented, so that the court can adjudicate – in the same way as was done in the First Judgment – on the extent of any contraventions and knowing involvement in their cases, and then consider – alongside the cases of the Original Individuals – what relief by way of declarations, remedial orders or restitution orders is appropriate.

6. The Original Individuals fell into two different groups, but what they had in common was that they were all in financial difficulties and at risk of having their homes repossessed by their home mortgagees or other lenders. In those very difficult circumstances, they found or were introduced to T Stevens and LPI, trading under the revealing name of "LPI Emergency Property Finance". T Stevens assured each of the Original Individuals that he could and would rapidly arrange a re-financing that would enable them to keep their homes.

7. The first group of the Original Individuals underwent a straightforward re-mortgage, facilitated by LPI. The Original Individuals' existing mortgagee, other secured lenders and in some cases other significant creditors were paid off out of monies advanced by a new unregulated lender that T Stevens sourced, and the new lender took a first legal

charge over the property. These are referred to as "RMC" cases (regulated mortgage contract), and the individuals in that group as "RMC Individuals".

8. The new lending was invariably on onerous terms, and LPI helped itself to very substantial fees for its trouble, usually by deduction from the advance. The fees were payable pursuant to the terms of one or more "irrevocable fee agreement declaration" that the Original Individuals were persuaded to sign without realising its terms. In some of these cases, the re-financing did not proceed, but LPI had at the outset procured a consent to entry on the registered title of a restriction in its favour (in many cases without the RMC Individual realising its significance or even what they were signing), and a restriction was very promptly registered against the property of the RMC Individual and then used as a means to obtain payment of the fees.

9. The second group of Original Individuals ended up selling their homes to NPI and taking an assured tenancy back from NPI ("SRA" cases (sale and rent back agreement) and "SRA Individuals"). NPI paid off the existing secured lender and fees to LPI. This exercise was usually financed by new secured lending from a bona fide third party lender, trading as "Together" or "LendInvest". Any remaining equity in the property was thereby absorbed by NPI. In addition, NPI collected market rents from the SRA Individuals from the date of the transaction.

10. In this second trial, all the Additional Individuals are actual RMC, or intended RMC, cases and none is an SRA case.

11. In this trial, as at the first trial, all the Defendants were debarred from defending the claim, and they were not represented at any stage of it. In those circumstances, as he did at the first trial, Mr Fell KC on behalf of the FCA took considerable care to ensure that there was placed before the court any argument that the Defendants would have been able properly to raise about liability, remedies and quantum had they been present or represented, and to draw to my attention any arguable flaw in the FCA's evidential case. I am particularly grateful to him for the thorough way in which he did so. I considered all of the points that he raised in reaching my decision on each individual case.

12. 23 of the 26 Additional Individuals are cases of intended RMCs, i.e. intended transactions that did not complete, for a variety of reasons. In some cases, the Additional Individuals managed to extricate themselves from dealings with LPI without suffering any or any significant loss. Others were much less fortunate. Only 3 of the Additional Individuals completed their RMC transactions.

13. I shall have to make findings in relation to the 26 Additional Individuals as to whether and to what extent the Defendants contravened the general prohibition or were knowingly concerned in such contraventions. I then have to address the appropriate declaratory and remedial relief to grant in their cases, and the appropriate further relief in respect of each of the Original Individuals too. The FCA accepts that the remedy in all RMC cases will be a restitution order and seeks such an order in the case of each RMC Individual against LPI and against T Stevens and D Stevens personally. The FCA argues that the appropriate remedy in the case of all SRA Individuals is a remedial order made against NPI and against T Stevens and D Stevens, but not against LPI.

14. The exercise of deciding what relief is appropriate will involve considering both the amount of any losses suffered by each individual and – to the extent identifiable without

complete disclosure from and participation by the Defendants – the amount of any additional profit that was obtained by LPI or NPI in each case. In the cases where RMC transactions took place, the assessment of loss principally involves comparing the debt that the RMC Individual had at the time of the re-mortgage with the debt at the later time when possession was given up, or the property was sold, and an adjustment for additional costs incurred or expenses saved as a result. Where no transaction took place, the focus is on payments that were made by the individual to LPI by way of fees or other expenses.

15. The SRA Individuals' cases are more complex because of the question whether a remedial order, seeking to some extent to undo or ameliorate the impact of the transaction, or a restitution order for compensation, is more appropriate.

16. It will be convenient to address matters in this judgment in the following sections:

    i) This introduction (paras 1-16);

    ii) The jurisdiction under the Act and statutory instruments made under it pursuant to which the FCA is claiming (which I can do in part by reference to the First Judgment, in which the Recorder set out the relevant statutory provisions fully and accurately) (paras 17-36);

    iii) The findings made by the Recorder in the First Judgment that are relevant to the issues of liability of the Defendants in the cases of the Additional Individuals (paras 37-49);

    iv) The evidence before me in relation to the 26 Additional Individuals (paras 50 – 59)

    v) My findings in relation to the cases of those individuals (paras 60 – 70)

    vi) The jurisdiction under the Act relating to remedies and the authorities touching on the right approach to the exercise of the statutory powers given to the court (paras 71 – 84)

    vii) The right approach to quantum in the RMC cases (paras 85 – 107))

    viii) The right approach to relief in the SRA cases (paras 108 – 145)

    ix) Relief to be granted (paras 146 – 151)

Statutory jurisdiction relating to regulated activities under the Act

17. The "general prohibition" in s.19(1) of the Act is that:

> "No person may carry on a regulated activity in the United Kingdom, or purport to do so, unless he is –
> (a) an authorised person; or
> (b) an exempt person."

18. Under s.31 of the Act, an "authorised person" means someone who has permission from the FCA to carry on "regulated activities". Various persons qualify as exempt in various circumstances, which includes appointed representatives of authorised persons (s.39 of the Act).

19. A "regulated activity" is defined by s.22 of the Act:

> "An activity is a regulated activity for the purposes of this Act if it is an activity of a specified kind which is carried on by way of business and –
> (a) relates to an investment of a specified kind;
> …"

It is therefore notable that dealing with specified investments is not a regulated activity unless it is carried on by way of business. The concept of carrying on an activity by way of business is generally widened by the terms of the Financial Services and Markets Act 2000 (Carrying on Regulated Activities by Way of Business Order) (SI 2001 No.1177) ("the CRAWB Order"), but in some relevant respects is narrowed (see the First Judgment at [27], [53], [54])

20. By s.22(5) of the Act, "specified" means specified in an order made by HM Treasury. The relevant order that specifies the regulated activities is the Financial Services and Markets Act 2000 (Regulated Activities) Order (SI 2001 No.544) ("the RA Order").

21. Apart from the power of the FCA to seek remedial and restitution orders against a contravenor, the consequences of non-compliance with the general prohibition, as between the contravenor and the consumer, are specified in s.26 of the Act. It provides (so far as material):

> "(1) An agreement made by a person in the course of carrying on a regulated activity in contravention of the general prohibition is unenforceable against the other party.
> (2) The other party is entitled to recover –
> (a) any money or other property paid or transferred by him under the agreement; and
> (b) compensation for any loss sustained by him as a result of having parted with it.
> (3) 'Agreement' means an agreement –
> (a) made after this section comes into force; and
> (b) the making or performance of which constitutes, or is part of, the regulated activity in question."

22. By s.28(3) of the Act, the court is given power to allow the agreement to be enforced, or money or property paid or transferred under it to be retained, if satisfied that it is just and equitable to do so, having regard to whether the contravenor reasonably believed that he was not contravening the general prohibition by making the agreement (s.26(5)). Subsection (7) provides:

> "If the person against whom the agreement is unenforceable –
> (a) elects not to perform the agreement, or
> (b) as a result of this section, recovers money paid or other property transferred by him under this agreement,
> he must repay any money and return any other property received by him under the agreement."

The reference to “property” is to be read as the value of the property at the time of its transfer under the agreement if the property has passed to a third party.

23. Thus, where there has been a contravention of the general prohibition, the consumer can elect not to perform and recover money or property transferred under the agreement, but if they do so they must repay any money or property received under the agreement. These provisions are of some importance when it comes to deciding what remedial or restitution order is appropriate in the cases of the SRA Individuals, and I will return to them later in this judgment.

24. By art. 88 of the RA Order, a “regulated mortgage contract” is a “specified investment”. What amounts to an RMC is specified in art. 61. It requires the credit (which includes a cash loan) to be provided to an individual or to trustees, and for the obligation to repay to be secured by a mortgage on land. At least 40% of the land must be used, or intended to be used, as or in connection with a dwelling, by anyone in the case of an individual, or by an individual who is a beneficiary of the trust or a related person (in the case of trustees) (art 61(3)(a)).

25. There are various “carve outs” to these RMC provisions specified in art. 61A(1) of the RA Order, which include “limited payment second charge bridging loans”, “second charge business loans”, “investment property loans” and “exempt consumer buy-to-let mortgage contracts”. These loans are not RMCs and so are not specified investments.

26. These categories of exclusion were addressed by the Recorder and the definition of each of these types of lending is set out in para 35 of the First Judgment. It is unnecessary to repeat them here. The Recorder considered whether any loan fell within such an exclusion but found that none did. Only one of the loans in the 37 RMC cases that he had to address was not an RMC, but that was because it did not satisfy the 40% dwelling use threshold, not because it fell within any of the art. 61A(1) exclusions. All 37 RMC Original Individuals were entering into the agreements with LPI to attempt to save their own homes.

27. I will address in due course whether any of the loans made or agreed to be made to the Additional Individuals is not an RMC for any reason, including that it is a loan of one of these types of unregulated lending. In relation to these, the following conclusions are the important considerations:

    i) For “investment property loans” and “second charge business loans”, if the RMC contains a compliant declaration, the borrower is presumed or deemed to have entered into the agreement wholly or predominantly for the purpose of a business carried on by them (which is one of the criteria for such loans). There therefore needs to be a declaration in a prescribed form for the presumption to arise.

    ii) The presumption is rebuttable. The deeming for an investment property loan does not apply where the borrower or a related person intends to occupy the mortgaged property as a dwelling. This is fundamental, as in each case bar one of the Additional Individuals, they intended to occupy the mortgaged property as their home. In the one exceptional case, the mortgaged property was to be occupied by the Additional Individual’s son, a related person.

iii) In some cases, the consumers signed declarations that the loans were for the purposes of the business. But this is not conclusive, and in no cases was this in the prescribed form. As the Recorder found, the declaration was in any case untrue in all cases and was part of the way that LPI operated to conceal the true nature of the lending from the lender and make the lending appear to be unregulated.

iv) If it is the case that the lending is a re-mortgage by a borrower not acting for the purposes of business, where the borrower intends to live in the property, and it is secured by a first legal charge, none of the exclusions can apply. If one or more of these criteria were unsatisfied in a given case, closer scrutiny of the exclusions would be necessary.

28. Where the new lending is or would be an RMC, the following are specified activities pursuant to art. 25A of the RA Order:

i) Making arrangements for a person to enter into an RMC as borrower (art. 25A(1) RA Order);

ii) Making arrangements with a view to a person who participates in those arrangements entering into an RMC as borrower (art 25A(2));

iii) Advising a person as borrower or potential borrower on the merits of entering into a particular RMC (art. 53A(1));

iv) Agreeing to carry on a specified activity (art 64).

29. All of these activities are subject to a rather narrower "acting by way of business" test than generally applies, by virtues of art. 3A of the CRAWB Order: a person must be "carrying on the business of" carrying on these activities, which implies a regularity of business in so doing. The Recorder held this requirement to be satisfied in each case in the First Judgment. As the same business model is in operation in the cases of the arrangements made with the Additional Individuals, it is beyond real doubt that, to the extent that there are specified activities that were carried on by LPI in their cases, this narrower business test will be satisfied in their cases too.

30. The activities in art. 25A(1) and art. 25A(2) are not intended to be mutually exclusive, and the meaning of "arrangements" has been held to be deliberately wide: see paras 41, 42 of the First Judgment. Both specified activities can exist even though no RMC is in fact entered into. In most of the RMC cases that I have to consider in this judgment, as with some addressed in the First Judgment, no RMC was in fact made. But that does not exonerate the Defendants if there were nevertheless arrangements made for that to be brought about (or with a view to it) or an agreement to do so.

31. The specified activity in art. 25A(1) is subject to an additional causation requirement, in that art. 26 excludes from that category "arrangements which do not or would not bring about the transaction to which they relate". This has been described in the authorities as requiring the relevant arrangements to have "causal potency", whether there was actual causation (because an RMC was entered into) or only notional causation (where no RMC is in fact made). The arrangements must have had (or be such that they would have had) a significant role, but not necessarily amount to a direct cause of the RMC being made.

32. The specified activity in art. 25A(2) ("making arrangements with a view to ....") is not subject to this causative exclusion: see [43]-[45] of the First Judgment. It is concerned with the purpose of the arrangements, whether or not the arranger has the ability to bring it about or influence the decision for an RMC to be made.

33. There are a number of further exclusions that operate in relation to both these specified activities: these are in arts. 27, 29, 33, 33A and 67 of the RAO Order. These are narrow exceptions, such as providing only the means by which one party to the RMC communicates with another, and arranging for the borrower to be advised by an authorised person where any commission or other advantage is disclosed to the borrower. The exact requirements of each exclusion are set out in [47] and [48] of the First Judgment. I shall consider in relation to each Additional Individual whether any of the exclusions applies, though the business model that LPI was operating was generally inconsistent with any of them applying, because LPI was intent on charging large fees for its referral services.

34. The specified activity in art. 53A(1) is advice given to a person as borrower or potential borrower, which is advice on the merits of entering into a particular RMC. FCA Guidance states that advice includes making a recommendation. The article therefore requires consideration of whether a recommendation of a particular RMC has been expressly or impliedly made, which itself is concerned with whether, on an objective analysis, some comment, value judgment, or element of evaluation or persuasion has been provided (see Rubenstein v HSBC Bank plc [2011] EWHC 2304 (QB) at [80]-[86]). The assessment is to be made having regard to the regulatory regime and the course of dealing between the consumer and the defendant. In the First Judgment, the Recorder summarised the principles that emerge from the authorities at [129].

35. As none of the Additional Individuals entered into an SRA or made arrangements with the Defendants for doing so, it is unnecessary to consider here the regulations relating to SRAs. (They are set out at [55]-[60] of the First Judgment.)

36. In the First Judgment, the Recorder found that T Stevens and D Stevens were liable as accessories to LPI's and NPI's contraventions of the general prohibition, on the basis that they were knowingly concerned in those contraventions. I shall have to consider whether that is also the case in relation to the Additional Individuals where a contravention is proved. It requires that these Defendants knew of the facts that amounted to the contravention and were involved in it (whether fronting the business or in the back office). Whether such a person knows that the facts amount to a relevant contravention is irrelevant.

The findings in the First Judgment

37. The Recorder set out his general findings as well as individual-specific findings. In his general findings (at [92]-[97]), he found that each of the Original Individuals were in distressed circumstances and that they were all (including a few who anticipated ultimately selling their properties) keen to avoid repossession of their homes. Initial introduction to LPI was achieved through its website, followed by a telephone conversation with T Stevens, and then within a few days a short, often hurried, meeting with him.

38. LPI provided the Original Individuals with paperwork to sign, without any proper explanation of it or time for the individuals to read the detail, and often documents were signed "in blank". If the individual raised questions, they were not given a proper answer but were told that what was necessary was being done and that they had little time. In most cases, the Original Individuals did not appreciate that they had signed forms agreeing to pay large fees to LPI, or what those fees would be, or that they had agreed to a restriction being placed on the title to their property in favour of LPI.

39. LPI then set about sourcing a loan, enlisting brokers to help and taking steps in conjunction with the intending borrowers and others to facilitate the transaction. In most cases, the lenders intended the loans to be unregulated lending for business purposes. LPI consistently required the individuals to provide evidence of an address for them that was different from the property over which security was to be granted, to tell the valuer who attended that they did not live at the property, and even in some cases to sign "sham" tenancy agreements to give a false impression about who lived in the property. In many cases, LPI did not tell the borrowers whom they were approaching to lend or what the terms or even the amount of the loan would be. The loans were high cost and LPI's fees substantial, so that the amount of the borrowing increased and the borrowers were in a significantly worse position at the end of the (often short) term of the new loan.

40. The Recorder rejected LPI's pleaded case that it only facilitated the making of secured loans "on occasions", that it explained the paperwork that it required the individuals to sign or told them that they would have to use a regulated broker or instead vacate their homes to use LPI's services. LPI made "systematic efforts" to secure the grant of loans that it knew to be regulated lending, on terms that it knew that the borrowers did not satisfy, and hid the truth from the brokers and lenders.

41. In a number of cases, illicit methods were used to facilitate the loans, including the forging of bank statements, the witnessing of signatures and certification of documents by solicitors that the borrowers had not met, false documents suggesting to the court that properties had been sold when they had not, and sham tenancy agreements.

42. LPI's lending-related activities were a central, regular and lucrative part of its business. It was a substantial and sophisticated business operation. LPI's own website and standard documentation (including irrevocable fee agreement declarations, restriction entry consents and standard forms of authority) confirm this. It was a central part of its business model, and LPI carried on the business of arranging and agreeing to arrange, and advising on, RMCs within the meaning of art. 3A of the CRAWB Order. LPI therefore breached the general prohibition in all the ways summarised by the Recorder in table B and table C following [140] of the First Judgment.

43. In reaching his findings in individual cases, the Recorder considered carefully, in relation to each of the Original Individuals' RMC cases, whether any of the exclusions was satisfied on the facts of their cases. The Defendants admitted (by their pleaded case) that LPI carried on a business of providing services to financially distressed individuals, whose homes were at risk of repossession or were being repossessed, and that it facilitated those individuals entering into loan agreements with third party lenders, secured by mortgages on their properties. However, the pleaded case denied that the transactions were regulated transactions or arose from regulated activity, and stated that LPI merely passed on the details of the individuals to other intermediaries, without

advising them, and that those intermediaries then selected and contacted a regulated broker or lenders themselves.

44. The Defendants also pleaded that, where not completed through intermediaries and brokers in this way, the properties had been vacated, there was no intention to use them as the borrower's residence but rather as investment properties, and that some charges were second legal charges.

45. In every case, the Recorder found that, despite some documents appearing to lend support to the case that the lending was business lending or the borrower was non-residential, none of the exceptions applied and so in each case other than one (where the criteria for an RMC were not proved) there was an RMC. In each individual case other than one, where there was only a finding of agreeing to arrange an RMC contrary to art. 64 of the RAO Order, the Recorder found that there was either a contravention because LPI had made arrangements for a person to enter into an RMC as borrower (35 out of 38 cases) or LPI had made arrangements with a view to the borrower entering into an RMC (37 out of 38 cases), and therefore in most cases both were found established.

46. There was also a finding that, in relation to every RMC case, there was an agreement to arrange RMCs, and in all but seven cases advice on a particular RMC.

47. As for the knowingly concerned issue, the Recorder had no hesitation in finding that T Stevens, who was "Head of New Business" for LPI, was "front and centre of" all its activities and knowingly concerned in each of the contraventions, even though the only director and shareholder of the company was D Stevens. As for D Stevens, the Recorder found that he had significant knowledge of and involvement in the individual transactions, e.g. by assisting in progressing the relevant loan applications, communicating with the Original Individuals about their applications and applying to enter and remove restrictions at HM Land Registry. If less extensive and more "back office" than his father's involvement, D Stevens' involvement was still extensive and critical, and he too was knowingly concerned in all the contraventions.

48. What the Recorder had therefore found was that LPI was carrying on the business of arranging for customers to enter into RMCs in circumstances where the intended or actual lending was clearly regulated lending, with no carve out or exception applying, and that any appearance to the contrary created by some of the documents was merely a pretence. In the course of carrying on that business, LPI agreed to make arrangements for RMCs to be entered into, acted with a view to RMCs being entered into, and arranged for RMCs to be entered into. In many cases, it also impliedly advised the RMC Individuals on the product that was presented to them.

49. Similar findings about T Stevens and D Stevens being knowingly concerned in relation to each of the SRA Individual cases were made.

The evidence in relation to the 26 Additional Individuals

50. At this trial, the cases of the 26 Additional Individuals require findings about the nature and extent of any contraventions by LPI; whether those activities were carried on by LPI by way of a business in those activities, for the purposes of art. 3A of the CRAWB Order;

and whether either T Stevens or D Stevens, or both, were knowingly concerned in any contraventions found.

51. The evidence that was before me was principally in the form of a second reporting witness statement of John Bulmer dated 5 February 2024, which:

    a) explained the contact that the FCA had had with the Additional Individuals, the signed statements that some had prepared, attendance notes taken by FCA officers of conversations with them and/or letters written by them to the FCA or questionnaires that they had completed,

    b) includes a summary of this evidence and all documentary evidence available, on an individual-by-individual basis for all 26,

    c) provides evidence of activities of T Stevens after the date of the Order made by the Recorder;

    d) updates the position with the known (and largely frozen) assets of the Defendants;

    e) explains the approach the FCA has taken to assessing losses resulting from contraventions; and

    f) then explains, individual by individual, what these losses amount to, in the different categories of transacted RMCs, attempted RMCs and SRAs.

    In his statement, Mr Bulmer assesses the aggregate losses suffered by the Original and Additional Individuals at £4,367,199.89.

52. Mr Bulmer made two further witness statements for trial: his tenth statement dated 8 February 2024, which updated certain aspects of his evidence in the second reporting statement, and his eleventh statement dated 13 March 2024, which addressed certain issues that arose in the course of the opening of the FCA's case. I gave permission for both additional statements to be relied on.

53. There were also signed witness statements of seven of the Additional Individuals: Mr Allan Toney dated 4 August 2023, Mr Pasquale Marioni dated 14 July 2023, Mr Paul Crann dated 21 July 2023, Ms Ashanti Bentil-Dhue dated 27 July 2023, Ms Lisa Hopkins dated 21 July 2023, Ms Jennifer Bower dated 23 August 2023, and Mr Phillip Greeney dated 20 July 2023.

54. Mr Toney, Mr Marioni, Mr Crann, Ms Bower and Mr Greeney came to court to confirm their witness statements, which allowed Mr Fell the chance to ask a few supplementary questions following the discussion in his opening of the FCA's case and me the chance to ask some questions of my own, to elicit some further facts and test (in some respects) the evidence contained in the statements. Mr Toney, Mr Marioni and Mr Crann were the three cases among the Additional Individuals where an RMC transaction did take place.

55. I am satisfied in each case that these 5 witnesses were truthful, both in their written statements and in their oral evidence. They were all in very difficult financial circumstances, at risk of losing their homes, and were taken advantage of by T Stevens and D Stevens when they were vulnerable.

56. In the event, Ms Bentil-Dhue and Ms Hopkins were unable to attend court to give evidence and I gave permission to the FCA to serve a late hearsay notice and rely on their evidence. I treat their evidence in the same way that I treat the facts provided to the FCA by other individuals and recorded by the FCA in detailed attendance notes or questionnaires, namely as likely to be true in so far as they are supported by the underlying documents that are available, and also on the basis that they are broadly consistent with the evidence given by many of the Original Individuals at the first trial and the evidence given by the 5 witnesses that I heard.

57. Importantly, I accept as likely to be true the assertions (in many cases supported by other documents) that despite there being a form of documentary record of the actual or intended lending being for business purposes, or of the individual residing at a different address or having a tenant of the property, the truth was that each individual (except Mr Palitsyne) was living in their property as their residence and wished to continue to do so, at least for a time, after a re-mortgage and restructuring of their debts. I accept, where the witness said so or a hearsay statement or the FCA's attendance notes state, that documents were signed either wholly or partly "in blank", because T Stevens presented them in that form, or that they were completed by the borrower without having a proper opportunity to read what was stated in the documents. This seems to me to be consistent with the evidence in the first trial and therefore very likely to be true.

58. In short, the evidence relating to the 26 Additional Individuals establishes further examples of the same *modus operandi* (and business) of LPI, carried on at the same time, fronted by T Stevens and based on deception and dishonesty, with D Stevens playing a secondary but nonetheless significant role in the background. T Stevens was described by many of the individuals as knowledgeable and plausible, despite the suspicious things that he was asking them to do in suspicious circumstances. The truth is that these individuals were in desperate circumstances and had little option other than to trust that LPI would help them. Other individuals had suspicions and, fortunately for them, pulled out of the proposed transaction, or in a few cases could not be helped by LPI. But they still mostly suffered losses as a result of the registrations of restrictions in favour of LPI against their titles.

59. So far as the evidence of losses is concerned, this was principally the result of analysis done by the FCA, confirmed and explained by Mr Bulmer in his second reporting statement, and updated in some cases in his tenth and eleventh witness statements. In turn, this was based on documentary records that the individuals were able to provide and documents that the FCA obtained by requiring lenders to produce them, pursuant to its statutory powers. In some cases, there are gaps. In almost every case, there is a sufficient picture of the various losses that were suffered; in the few cases where there is an incomplete picture, it is possible to find, on a balance of probabilities, what the loss was.

Findings in relation to the Additional Individuals

60. I have come to broadly the same conclusions in relation to these 26 RMC Individuals as the Recorder did in relation to the 37 in the First Trial. The 26 cases fit a very similar pattern to the facts of the Original RMC Individuals.

61. The allegations against the Defendants in these cases are that LPI agreed with each Additional Individual to arrange an RMC, usually in the form of a written agreement signed (knowingly or unknowingly) by the Additional Individual, but also orally, and that T Stevens on behalf of LPI took steps to arrange or try to arrange an RMC, using his "network" of brokers and lenders, which in most cases resulted in a specific RMC (or sometimes more than one) being offered to the Additional Individual by the broker (and in one case at least, T Stevens appeared to procure an offer directly from a lender). It is also alleged that LPI advised the Additional Individuals in relation to an RMC, implicitly, by acting in this way. T Stevens was the front man, interacting with the consumers as the "Head of New Business", and D Stevens operated in the office, writing correspondence as required to work towards the aim of an RMC transaction, and, materially to the loss suffered by many, applying to the Land Registry for the agreed restrictions to be registered against the property titles (and in some cases removed).

62. Given the considerable similarity of the facts in these 26 cases, I can state my conclusions in summary form, as follows:

    i) LPI's activities in relation to each Additional Individual concerned an RMC or intended RMC, within arts. 61 and 61A of the RA Order.

    ii) That is because none of the exclusions, or "carve outs" in art 61A or other articles of the RA Order applies: in each case the loans were or were to be by way of re-mortgages, not purchase mortgages; they were secured or intended to be secured by first charges over the property, not second charges; and the Additional Individuals (except Mr Palitsyne) resided and/or intended to reside in the property and were not acting by way of business, despite what some documents prepared by LPI appeared to show the lenders. In the case of Mr Palitsyne, it was his son, a related person, who resided in the property, so that makes no difference to the analysis in his case.

    iii) The specified activities carried on by LPI in the case of most of the Additional Individuals were all of the following:

        a) arranging for RMCs to be entered into, under art. 25A(1) of the RA Order, the causation test in art. 26 being met in all cases and no such RMC being entered into (or intended to be entered into) with the benefit of advice from an authorised person (art. 29);

        b) making arrangements with a view to RMCs being entered into, under art. 25A(2), with the exclusions in arts. 33 and 33A not applying in any case because the introductions from LPI were mainly to non-authorised or non-exempt brokers or lenders, and even where an authorised broker or lender was used, the introduction effected by LPI was not with a view to the provision of independent advice;

        c) agreeing to arrange RMCs, under art. 64, with the agreements being made orally in the first conversation between T Stevens and the Additional Individual or at the subsequent meeting, and in most cases also in the form of signed agreements, the so-called "irrevocable fee agreement declarations", which were not a necessary part of other services provided by LPI by way of its business, within the meaning of art. 67.

iv) In the following Additional Individual cases, I am not persuaded that there were specified activities of the following types (though the findings above as to other types of specified activity do apply in each case):

a) Jean-Pierre Jacob: there was no arrangement for an RMC to be entered into, within art. 25A(1) RA Order, because no product was available for Mr Jacob, who did not pursue the matter: the causative connection was absent in this case.

b) Michael Philippou: There was no arrangement for an RMC to be entered into, within art. 25A(1), because Mr Philippou did not take matters far enough and there is no evidence that a lender was identified.

c) Mark and Zena McKay: no lender materialised because the McKays managed to sell their property shortly after LPI became involved. Matters therefore did not progress far enough for LPI to have made arrangements for an RMC to be entered into, within art.25A(1).

d) Andrew and Louise Burt: matters did not progress far enough for any RMC product to be provided to the Burts, who appear to have resolved their financial difficulties themselves. There was therefore no arrangement made by LPI for the Burts to enter into an RMC, within art.25A(1).

e) Anna Mamtsumi Sibeko: there was no progress in this case towards an RMC product being offered to Ms Sibeko, as LPI appeared happy to wait until it was in a position to sell the property itself, using powers conferred unwittingly by Ms Sibeko. There was therefore no arrangement made by LPI for Ms Sibeko to enter into an RMC within art. 25A(1).

v) In most cases, I have not been persuaded that LPI advised on RMCs, under art. 53A(1), because LPI generally referred the case to a broker, who usually provided one product to the Additional Individual on a 'take it or leave it' basis. In many cases, the Additional Individuals clearly left it to LPI to find something that would mean they could stay in their homes, without seeking or expecting advice, and in many cases they knew little about what the product was, or even how much was borrowed. In practice, many of the Additional Individuals simply delegated to LPI (who further delegated to the broker) finding a product that could keep them in their homes, having signed forms that gave LPI and its solicitors power to enter into transactions on their behalf. LPI merely forwarded onto the RMC Individual whatever the broker sent to it (and in some cases the broker communicated directly with the individual).

vi) In the following cases only, I find that advice was impliedly given by LPI on a particular RMC product, as a result of the communications directly between LPI and the individual, as explained in the first schedule to this judgment ("the Additional Individuals Schedule"):

a) Allan Toney: in this case, Mr Toney pushed back against the product that LPI presented to him, and T Stevens explained to him why it was appropriate, thereby impliedly if not expressly recommending the loan to him.

b) Jennifer Bower: in this case, LPI did impliedly advise Ms Bower to accept a product that it had specifically sourced for her.

In those cases, this advice was not a necessary part of other services provided by LPI by way of its business.

vii) LPI carried on a business of engaging in arranging RMCs and agreeing to do so, within the meaning of s.22 of the Act and art. 3A of the CRAWB Order. The business is exactly the same as that found by the Recorder in the First Judgment, and the dealings with the Additional Individuals were other examples of that business being carried on during the same period in that way, under the direction of T Stevens and D Stevens.

63. T Stevens and D Stevens were knowingly concerned in all the contraventions that I have found relating to the Additional Individuals, just as they were knowingly concerned with all the contraventions found in the First Judgment.

64. As to the knowing involvement in these 26 cases, T Stevens was the front man in each case. D Stevens was also closely involved in running the business of LPI at the time, and to some extent in each of the cases of the Additional Individuals. It is material that D Stevens is the only director of LPI and he therefore dealt with the more formal aspects of running LPI's business.

65. As to the role of D Stevens in the 26 Additional Individuals' cases, the FCA was able to produce a table (at p.20 of its Closing Note) showing the nature of his personal involvement in each of their cases, to some extent. Although there is only evidence of his personally speaking to Ms Munden, Mr Jacob and Ms Bower, there is either an email or a letter from or to D Stevens, or alternatively a reference to D Stevens in transactional documents, in every Additional Individual's case, and in 11 cases there is both correspondence and a reference. D Stevens is usually named as a point of contact for LPI in the legal authority forms that were signed, and where the applications to register a restriction are available, these were signed by him. The limited evidence that the FCA has been able to present does not mean that D Stevens was not involved to a greater extent in each case. In some cases, very little by way of documentation has been provided to or obtained by the FCA, and the Defendants did not provide complete disclosure. In some cases the dealings between the Additional Individual and LPI were short-lived. I find nevertheless that D Stevens was probably knowingly involved to a significant extent in the dealings with each of the Additional Individuals and therefore knowingly concerned in the contraventions that took place.

66. As regards the knowledge of T Stevens and D Stevens, it is material that the FCA warned LPI in the autumn of 2017 about the nature of the services that it was advertising, and Edward Marshall Solicitors responded on LPI's behalf explaining that the way that it operated involved the use of regulated brokers. T Stevens and D Stevens were both aware of the FCA's concern that LPI would be carrying on specified activities when neither

authorised nor exempt. They both knew what LPI was doing and that it was neither authorised nor exempt. That is not disputed in the Defendants' pleaded case. All that is alleged is that they were unaware of the legal status of what they were doing and were advised by solicitors that it was lawful. Ignorance of the law is no defence, and in any event, I find that both T Stevens and D Stevens knew that LPI was contravening the Act. The attempt to dress up the lending as business lending was primarily to deceive the lenders into making unsuitable lending products available, but it also served to give the appearance of regulatory legitimacy.

67. A summary of the relevant findings in the case of each Additional Individual is set out in the Additional Individuals Schedule.

68. In relation to those cases, the FCA seeks declaratory relief equivalent to that which was granted by the Recorder following the First Judgment, to the effect that LPI contravened the general prohibition in relation to the Additional Individuals in the ways identified in [62] above and in the Additional Individuals Schedule. In discharging his duty to the court, Mr Fell set out in submissions reasons why the court might decide not to make declarations about the extent of the transgressions of LPI, but I was not persuaded by any of them. These were each serious cases of contravention of the general prohibition in various ways, and the conduct deserves to be marked by a declaration of that kind. It would also be odd for declarations to be made in the case of 37 RMC Individuals whose cases were considered in the First Trial but not in the cases of 26 RMC Individuals whose cases were considered in this trial.

69. I will also, in consequence of my findings, declare that the irrevocable fee agreement declarations, the restriction entry consent agreements and any agreement for payment of fees associated with the properties of the Additional Individuals identified in the Additional Individuals Schedule are unenforceable against those individuals, by reason of s.26 of the Act.

70. There are, according to Mr Bulmer's 11th witness statement, only 4 properties where LPI's restrictions remain registered against the title to the properties: the cases of the Burts (106 Lower Hanham Road), Mr Levy and Ms Dennis (3 Mathews Avenue), Mr Connolly (35 Hanover Gardens) and Mr Palitsyne (Flat 85, Globe View). In relation to each of them, I will make a remedial order that LPI and D Stevens (its sole director) must apply for each restriction to be removed and do whatever is required by the Land Registry to achieve removal. This mirrors the relief granted in the First Judgment and is obviously appropriate, to avoid any further loss being caused to the relevant individuals.

Jurisdiction and law relating to remedies

71. Section 380 of the Act provides, so far as material:

> "(2) If on the application of the appropriate regulator or the Secretary of State the court is satisfied –
>
> (a) that any person has contravened a relevant requirement, and
>
> (b) that there are steps which could be taken for remedying the contravention,

> The court may make an order requiring that person, and any other person who appears to have been knowingly concerned in the contravention, to take such steps as the court may direct to remedy it.
>
> …….
>
> (5) In subsection (2), references to remedying a contravention include references to mitigating its effect."

This type of order is generally known as a "remedial order". Subsection (5) clearly has the effect of widening the power that the court has to make a remedial order. The mitigation provision did not exist in the predecessor statute, the Financial Services Act 1986.

72. Section 382 of the Act provides, so far as material:

> "(1) The court may, on the application of the appropriate regulator or the Secretary of State, make an order under subsection (2) if it is satisfied that a person has contravened a relevant requirement, or been knowingly concerned in the contravention of such a requirement, and –
> (a) that profits have accrued to him as a result of the contravention; or
> (b) that one or more persons have suffered loss or been otherwise adversely affected as a result of the contravention.
>
> (2) The court may order the person concerned to pay to the regulator concerned such sum as appears to the court to be just having regard –
> (a) in a case within paragraph (a) of subsection (1), to the profits appearing to the court to have accrued;
> (b) in a case within paragraph (b) of that subsection, to the extent of the loss or other adverse effect;
> (c) in a case within both of those paragraphs, to the profits appearing to the court to have accrued and to the extent of the loss or other adverse effect.
>
> (3) Any amount paid to the regulator concerned in pursuance of an order under subsection (2) must be paid by it to such qualifying person or distributed by it among such qualifying persons as the court may direct.
>
> ………"

This kind of order is generally known as a "restitution order", following the side note to the section, as enacted.

73. For losses to "result from" a contravention, the infringing conduct must have been "an efficient cause but it need not have been the sole or dominant cause": The Financial Conduct Authority v Avacade Ltd [2021] EWCA Civ 1206, per Popplewell LJ at [76]. The amount of any restitution order made is not necessarily the amount of the relevant loss or value of the adverse effect resulting from the contravention, nor the amount of any profit accruing, if that is identifiable – but the amount of the restitution order, which is required to be "just", must have regard to these matters, if known.

74. However, the default position ought to be that the sum specified in a restitution order includes all proven losses, if that is just: The Financial Conduct Authority v Capital Alternatives Ltd [2018] 3 WLUK 623 (Ch) at [1327(4)].

75. Importantly, remedial and restitution orders are not mutually exclusive categories. The facts of a given case might be appropriate for either: The Financial Services Authority v Martin [2005] EWCA Civ 1422, per Sir Andrew Morritt at [20]. Equally, there is no obstacle to making a remedial order and a restitution order in relation to the case of a particular consumer, or consumers, provided of course that it does not amount to a double benefit or double counting. A remedial order may well be appropriate where it is still possible to unwind the transaction that amounted to the contravention, or to remove its effect or mitigate its effect (other than by monetary compensation). However, as recognised by s.28(7), if a consumer elects to treat an agreement as unenforceable, they must repay money and property received by them under the agreement. A remedial order, if granted, should in my view respect the same quasi-*restitutio in integrum* principle, and may therefore be inappropriate where such restitution of benefits obtained can no longer be achieved.

76. The FCA submitted that, in fashioning an appropriate remedy in these circumstances, the court should bear in mind the overall purposes of the Act, which include a consumer protection objective. This takes account of the differing degrees of risk in various transactions, the differing degrees of expertise and experience that consumers have, their need for timely and appropriate advice and information, and the expectation that service providers should provide consumers with a commensurate level of care: ss. 1B, 1C of the Act. To pursue these objectives, the FCA has made rules applying to the residential mortgage lending business, with which authorised providers must comply.

77. Under s.55B of the Act, there are threshold conditions imposed when the FCA authorises persons to carry on regulated activities, and it is obliged to ensure that the provider will satisfy and continue to satisfy these threshold conditions in relation to regulated activities. These conditions include that:

    i) the provider must be capable of being effectively supervised by the FCA, having regard to all the circumstances,

    ii) the provider must be a fit and proper person in all the circumstances, including that its affairs are conducted in an appropriate manner and that those who manage its affairs have adequate experience and skill and may be expected to act with probity, and that

    iii) its business model is suitable having regard to (among other things) the interests of consumers (Sched 6, paras 2A, 2C, 2E and 2F of the Act).

78. In other words, the general purpose of the Act is to protect consumers from the risk of suffering loss through lack of knowledge and absence of suitable advice, and from being exploited by unsuitable or unscrupulous persons.

79. Against that background, the FCA summarised the right approach to granting relief as follows:

    i) The court has a wide discretion under both sections;

ii) The court decides the amount to be paid or what remedy is required, in its discretion;

iii) The court should consider, against the statutory purposes, what kind of remedy would be most appropriate;

iv) A remedial order is likely to be appropriate if some unwinding of a transaction is possible and required, if its harmful consequences still subsist, or if it is difficult to quantify the amount of losses;

v) A restitution order may be appropriate where the interests of consumers are concerned only with compensation, or disgorgement of profits;

vi) An order for payment should be for such sum as is just, having regard to losses caused and the amount of profits made, but additional factors may be the seriousness of the contravention, the degree of culpability and (possibly) the means of the contravenor or those knowingly concerned in the contravention.

80. In most RMC cases where a transaction occurred, the property has since been sold by the consumer or by the new lender, and so losses have crystallised. In other cases, the property has been re-mortgaged again, paying off the new lender, and the loss has similarly crystallised. Where an RMC transaction did not occur, the consumer has either paid fees to LPI and the restriction has been removed, or the restriction remains in place.

81. In the SRA cases, the SRA Individuals still remain tenant under the assured shorthold tenancy (or a successor tenancy) granted as part of the transaction: some are paying rent and some are not. The property in all such cases has been mortgaged by NPI to Together or LendInvest. The FCA accepts that Together's interest in the property binds NPI and anyone else with an interest in it. The property therefore cannot currently be transferred back to the consumer without redeeming the new legal charge. When that charge may be redeemed or the tenancy may end, and how much further rent or other sums may be paid before then, is uncertain.

82. In the light of this approach, the FCA submits as follows.

i) In all the RMC cases where a restriction is still in place on the registered title, the appropriate remedies are a remedial order requiring removal of the restriction, which will prevent further losses and profits from arising, together with a restitution order for any fees paid to LPI or other losses incurred by the RMC Individual as a result of the contravention.

ii) In all the RMC cases where the restriction has now been removed (because either LPI paid itself out of the new loan advance and removed it, or it has extracted its fees from the consumer as the price of removal), the appropriate remedies are a restitution order for the amount of the losses suffered by each such individual.

iii) In all the SRA cases, the appropriate remedy is an order requiring the equity in the property (after discharge of Together's or LendInvest's debt and costs of sale) to be re-transferred to the consumer, but only when the property is sold by Together or LendInvest, or by NPI, and for all the rent paid by the consumer to be repaid at that time. To prevent NPI avoiding the circumstances where payment is triggered,

it is suggested that there should be an order requiring NPI to sell the property if it becomes vacant, or if it becomes free from incumbrances. By that means, for so long as the SRA Individual remains in the property under the rent back arrangement, the remedial order is effectively suspended to a time in future.

iv) Alternatively, if a remedial order is considered inappropriate in the SRA cases, the FCA seeks a restitution order in a sum equal to the losses that the consumers have suffered, calculated by reference to the loss of equity at the time of the SRA transaction and a counterfactual in which the consumers were evicted by their original secured lender, incurring further costs, and then had to rehouse themselves.

83. In all such cases, the FCA accepts that it is difficult for the amount of any profit made by LPI or NPI to be identified, and in all RMC cases the financial benefit to LPI is likely to be the obverse of the loss suffered by the RMC Individual. Save in one unusual case, the FCA does not therefore seek any restitution order based on profits made by LPI or NPI.

84. The one exceptional case is Mr Baylis and Ms Kreuder, where it appears that their loss was caused because they elected to seek a refinancing solution with another person, unconnected to LPI, which led to their property being transferred out of their ownership. LPI was not responsible for that, but the new owner evidently had to pay money to Richards Solicitors, acting for LPI, in order to remove the restriction on the property's title. That means that money was diverted from the alleged fraudsters to LPI, in the sum of £42,380. LPI thereby made a profit, even though its contravention did not cause Mr Baylis's and Ms Kreuder's loss.

The right approach in the RMC cases

85. The RMC cases fall into essentially two categories, though there are a few outliers where the facts are unusual: Moroney, Bower and Baylis and Kreuder.

86. The first category is where the agreements made with LPI in contravention of the general prohibition led to a re-mortgage transaction. In these cases, the RMC Individuals made agreements with LPI that resulted in substantial fees being incurred, which were paid to LPI out of the re-mortgage advance, and in consequence a much higher liability to the new lender on terms that were exorbitant for a loan to a residential occupier secured by a first legal charge. Not only that, but the term of the loan was often for a short period only, usually 6 months, resulting in a demand by the new lender for repayment that the RMC Individual was unable to afford at that time. In most cases, in consequence, the new lender repossessed the property, incurring further costs and fees, with any remaining equity (if any) coming back to the RMC Individual. In a few cases, the RMC Individual themselves took the decision to sell, or were able to remortgage on better terms.

87. In these cases, therefore, the RMC Individual became indebted in a much larger sum as a result of the transaction, made up of the capital advanced (including LPI's fees), rolled up interest and the costs of repossession or sale.

88. The second category is where, despite an agreement being made with LPI in contravention of the general prohibition, no transaction with a new mortgagee followed, for one of various reasons. Typically, in these cases, the RMC Individual made an agreement to pay LPI fees and signed a consent to the restriction on a disposition of their property being registered in favour of LPI, as a means of securing payment of the fees.

The RMC Individual generally paid the fees to LPI, either up front or at a later time, when they had to do so as the price of being able to sell or re-mortgage the property.

89. In these cases, typically, the loss suffered by the consumer is the amount of the fees paid. However, in a few cases, no loss was suffered. The fact that the fees were paid "voluntarily", at a later time than entering into an agreement that amounted to the contravention, does not mean that the loss did not result from the contravention. In reality, the RMC Individuals had no option but to pay off LPI, and some were professionally advised to that effect.

90. In both these categories of case, the FCA seeks a restitution order, the amount of which in each individual case is based on the loss suffered by the RMC Individual as a result of the contravention(s), if any.

91. I agree that a restitution order is the appropriate order to make, where a loss has been suffered. It is appropriate in these distressing and exploitative cases for the sum to be paid to the FCA to reflect the total losses suffered by each RMC Individual. I do not consider that the fact that the Defendants appear to have assets that are worth less than the aggregate total losses is a good reason to reduce the sum that they should be ordered to pay. These were very serious contraventions, conducted over an extended period, involving high levels of culpability including deception of the consumers and the lenders, and which took advantage of the consumers' vulnerability.

92. As for LPI's profits made from the contraventions, it is difficult, in most cases, to establish the amount of the profit made by LPI, owing to non-disclosure of its financial documents, but it is likely to be lower than the total loss suffered by each LPI Individual, as a result of the high rate of interest and fees payable to the third party lender. Further, with the exception of the Baylis and Kreuder case, the profit made by LPI based on the fees charged will be at most only a mirror of the amount of loss suffered by the RMC Individual in incurring those fees, so no additional sum on account of that profit would be appropriate.

93. In RMC transaction cases, the property ended up being sold at a later date by the new mortgagee, or by the RMC Individual, whose replacement mortgage was redeemed at that time. The amount required to redeem the existing mortgage and the amount paid to redeem the new mortgage are known in each case. I accept Mr Bulmer's evidence about these figures, as they are supported by documents obtained by the FCA.

94. In these cases, the FCA argues that the starting point should in principle be the difference between the amount required to redeem the new mortgage (which included any repossession and sale costs, where these were incurred) and the amount required to redeem the original mortgage ("the differential debt figure"). This will take account of the fees paid to LPI because these were "released" to LPI directly from the amount of the new loan. This measure is accordingly based on the increase in the debt that the RMC Individual suffered as a result of the transaction. That would be precisely so if the RMC Individual did not pay any interest under the new mortgage, or if (which was not the case) the interest rates were at a market rate for a RMC secured by a first charge, but some RMC Individuals paid interest at an excessively high rate. The FCA's approach does not identify or try to analyse these cases in that way, perhaps for the practical reason that it was difficult to identify accurately the interest payments made in each case, or perhaps for reasons of proportionality.

95. The FCA accepts that credit then has to be given against the differential debt figure for the benefits (relatively speaking) that accrued to the RMC as a consequence of the same transaction. These are that, in the assumed counterfactual, the RMC Individual would have incurred costs of repossession and sale of their property in any event, if the re-mortgage transaction had not taken place, and would have had to incur (in most cases) costs of renting a different property in which to live. The FCA therefore proposes that a deduction be made for repossession costs that would have been incurred anyway, if the transaction had not taken place, and for the costs of alternative accommodation for the period from the RMC transaction to repossession or sale of the property.

96. I agree that the contravention cannot be said to have caused the RMC Individual to incur costs of repossession and sale, because that is exactly what they were facing when the contraventions by LPI took place. In some cases, the contraventions caused those costs to be only deferred to a later date, but in some cases they were avoided, where the RMC Individual sold the property without incurring them. I therefore agree that a deduction from the differential debt figure for the costs of repossession and sale is appropriate, as a means of stripping out from the differential debt figure the repossession costs that would have been incurred if the RMC transaction had not occurred.

97. It being impossible to identify either the actual repossession costs incurred in each individual's case by the new lender or the exact costs that would have been incurred in the hypothetical world, the FCA has calculated, based on figures that are known in some cases, an average sum for the total costs of repossession and sale. The known costs vary considerably, but they average out at £29,827. I accept that is an appropriate and proportionate way of seeking to identify the costs that would have been incurred on a repossession and sale by the existing lender. That figure will be deducted in each RMC transaction case.

98. As for costs of renting alternative property in which to live, these costs might or might not have been incurred by any RMC Individual in the counterfactual world. I agree with the FCA that the right counterfactual to assume, for the purposes of assessing what losses resulted from the contravention, is the sale of the property by the existing mortgagee. It is inherently unlikely that these distressed individuals would have obtained conventional lending from another source that was more affordable, and the lending products that were obtained by LPI in their distressed cases were procured by misrepresenting the facts to the lenders. The obvious outcome in their cases was therefore that the RMC Individuals would have been evicted and had to pay rent for other living accommodation.

99. In some cases, the FCA advances a case based on evidence from the individual that, in the counterfactual world, such rental costs would not have been incurred because that individual would have gone to live with a friend or relative. In those cases, no deduction for accommodation costs is made by the FCA against the differential debt figure. Otherwise, the FCA deducts a sum that represents the cost of renting a hypothetical property to house the RMC Individual for the relevant period. That sum is calculated by reference to the letting value of the property, which in some cases is known because the new lender required a rental valuation; otherwise, it is assumed to be 4% of the capital value of the property (which is known in every case from the valuation done for the new lender). However, since the RMC Individual could not afford to finance living in their existing property, the level of rent for the hypothetical property is assumed by the FCA to be at a rate of two-thirds of the rental value of the existing property (i.e. the rent likely to be paid for a more modest property).

100. I do not consider that this is the right approach. The benefit that was secured by the transaction, which otherwise increased the amount of the RMC Individual's debt, was that they were able to continue to live in their own home for a longer period. Although the debt increased, the RMC Individual had the benefit of the loan that enabled them to avoid eviction at that time. What should be set against the increase in the amount of the debt is accordingly the value of the occupation of the existing property for the period in question, not the cost of finding somewhere else to live if the RMC Individual would have had to incur it. The question here is whether all the loss apparently represented by the differential debt figure was caused (legally and factually) by the contravention. The fact that, but for the remortgage transaction, the RMC Individual would have become homeless, tells one that some allowance needs to be made for the financial benefit of avoiding that outcome. A reduction is therefore appropriate. But the right way to adjust the loss is to credit the benefit that was in fact enjoyed, not what (if any) cost of mitigating the RMC Individual's homelessness would have been incurred in the counterfactual world.

101. Accordingly, in each case where there was a remortgage transaction, I will credit against the differential debt figure (in addition to the £29,827 of repossession costs) a figure for the relevant period based on the rental value of the existing property of the RMC Individual. I do so even if, in the hypothetical world, that individual might have gone to live rent-free with a relative. In reality, that individual had the real benefit of continuing to live in their own home. I accept the evidence of Mr Bulmer as to the rental values of the properties: he has used the best evidence available, and where there is no evidence of rental value has taken a conventional 4% of the capital value of the property.

102. To take one worked example, in the case of Mr Harrington Thomas, £120,949.33 was paid out of the new 4Syte advance that LPI arranged to redeem his existing mortgage and other charges, which are identified in the financial statement sent to him by Jacobs Law Solicitors. The total amount required to redeem the 4Syte loan later was £224,045.40. None of the new lending was paid to Mr Thomas for his benefit (a common feature in all these cases). Mr Thomas's debts therefore increased by £103,096.07. Valuers had assessed the rental value of his property at £1,400 per month, so for the 5 month period following redemption of the original loan before Mr Thomas sold his property there should be a credit of £7,000, in addition to the £29,827 for the costs that would have been incurred on repossession and sale of his property by the original lender in any event. The total credit is therefore £36,827 and the net loss is £66,269.07.

103. I will adopt the same approach in principle to all the RMC transaction cases, though in some cases there are additional factors that need to be taken into account, such as compensation payments made by the Solicitors Regulation Authority. The cases of Mark and Louise Moroney and Mr and Mrs Kershaw are more complicated, as there was first an RMC and then an SRA, and I will deal with the approach to quantum and calculation in those cases in the next section of the judgment.

104. In the RMC Individual non-transaction cases, the losses (if any) are the fees that the individuals paid to LPI or to others, as legal costs or valuation fees. The figures in each case are set out in the second schedule below ("the RMC Losses Schedule"). The exceptional case here is Baylis and Kreuder, where LPI made a profit of £42,380 from its restriction but its contraventions did not cause the losses that those RMC Individuals suffered. I am satisfied in this case that LPI should not benefit from the contravention

that enabled it to have the restriction in place and earn that profit. There will be a restitution order in that amount in the Baylis and Kreuder case.

105. I will hear from Counsel when handing down this judgment whether there is any jurisdiction to award interest on the losses or part of the losses suffered, and if so how that might be exercised in these cases.

106. Subject to that, the RMC Losses Schedule sets out the calculation of loss in the case of each RMC Individual who suffered a loss. The first section of the RMC Losses Schedule deals with the RMC transaction cases; the second section with the RMC non-transaction cases.

107. In four RMC cases where no transaction took place, LPI's restriction remains registered against the title to those RMC Individuals' properties. Regardless of whether there is also a restitution order in relation to loss suffered by those RMC Individuals, a remedial order requiring LPI to remove the restriction is appropriate and will be made in those cases.

The right approach in the SRA cases

(1) The FCA's case as to appropriate remedy

108. The FCA argues that a remedial order is the more appropriate remedy in these cases, for various reasons that I will explain below. One reason why such an order might be appropriate is that the transaction that resulted from the contravention has not ceased to have effect, which therefore raises the question in each case of whether it is possible to unwind it or otherwise mitigate its effect. The principal difficulty with unwinding or mitigation is that innocent third party rights have intervened: the FCA does not contend that Together or LendInvest, NPI's mortgagee of the SRA properties, is amenable to any remedial order.

109. The first question is therefore whether it is feasible and appropriate to make a remedial order in these circumstances. That depends initially on whether there are steps that could be taken to remedy the contravention, which includes mitigating its effect.

110. The contraventions found in each of the 13 SRA cases were that LPI made arrangements for the SRA individuals to enter into an SRA as agreement sellers and made arrangements with a view to their doing so (arts. 25E(1) and 25E(2) of the RA Order) and in all but one case advised them on SRAs (art 53D); and that NPI in each case entered into an SRA as agreement provider (art 63J(1): see at [55]-[59] and table D following [172] of the First Judgment). In each case, the finding was that this was done by way of a business of doing such matters. In some cases, there was also a finding that LPI and/or NPI had administered an SRA by way of business (art 63J(3)(b)).

111. There can be no doubt, based on these findings, that both LPI and NPI were efficient causes of the losses that the SRA Individuals incurred as a result of these contraventions.

112. The core facts relating to the transactions are essentially the same in each SRA case and were summarised by the Recorder at [154]-[155] of the First Judgment. The SRA Individual would contact LPI and T Stevens would tell them that he knew a company

that could buy their properties and rent them back, without disclosing his connection with NPI. LPI made the arrangements, and the consumers signed documents, sometimes in blank, without knowing their content or being advised about them, and they were often unaware of the sale price and other terms. The sale and tenancy documents were prepared in such a way as to suggest to the lender that the sale and rental transactions were separate, whereas in fact there was no intention that the property would be sold to NPI with vacant possession, despite the terms of the sale agreements. The SRA Individual was often not provided with copies of any of the documents they signed.

113. As a result of the contraventions by LPI and NPI found by the Recorder in these cases, it is clear that, in almost all cases, a real loss has been incurred by the SRA Individuals and, conversely, profits will have accrued to NPI and LPI, though the full extent of the profits is hard to identify, given the Defendants' lack of participation in these proceedings. The SRA contraventions occurred with regularity between March 2018 and July 2020 and were serious in nature. As found in the First Judgment, NPI sought to conceal the true position with the occupation of the SRA Individuals because of its awareness of the regulatory scheme and the requirements of its lender. The SRA Individuals were all vulnerable individuals; in many cases they did not give properly informed consent when entering into the SRAs.

(2) A worked example of losses caused

114. I will take one case, that of Mr and Mrs Tsormetsri, as an example of these conclusions and of further facts that are relevant in deciding what order to make.

115. Mr Tsormetsri, who was a witness in the first trial, said that T Stevens called him and told him that the eviction was cancelled and that it was all "sorted", and that he should pay £795 a month. Remarkably, T Stevens did not tell him whether this was rent or a mortgage interest payment (LPI had previously been trying to source a new loan in his case). Mr Tsormetsri had, without realising it, signed a sale agreement with NPI for a sale price of £215,000, with vacant possession, with the deposit to be used to discharge LPI's fees and no further sale monies to be paid to Mr Tsormetsri, but the secured loan was to be paid off in full from the proceeds of sale. Some time after contracts had been exchanged, assured shorthold tenancy agreements were signed at a rent of £795 per month, but the Tsormetsris were unaware that that was what they had signed. Mr Tsormetsri started to pay that monthly sum in May 2018.

116. Documents obtained by the FCA show that on 4 December 2018, NPI obtained a loan of £144,470 from Together. In this case, it appears that, owing to conveyancing failings by LPI's solicitors, Edward Marshall Solicitors, title was not transferred to NPI and the lender's mortgage has not yet been registered. The most recent Land Registry official copy of the title of the property shows the Tsormetsris as the registered proprietors. It appears that one of the pre-existing lenders, Elderbridge, might not have been fully repaid out of the proceeds of sale, though the majority of its debt has been repaid. The value of the property at about the date of the transaction was £195,000 and the total secured debt to Elderbridge was £142,460.56. Accordingly, the Tsormetsris had equity of £52,539.44 at the time of the transaction with NPI.

117. The Tsormetsris paid total rent of £23,728 to NPI between May 2018 and August 2021. The FCA contends that, but for the transaction with NPI, the Tsormetsris would have been evicted and would have had to pay rent for another property, assessed as likely to

have been about £650 per month, and that up to the date that the calculation was made they would have paid a total of £26,866.67 in rent. The FCA has calculated that if the original secured lender had repossessed and sold the property, costs of £29,827 would, on average, have been incurred. The losses that the Tsormetsris have incurred (assuming that in due course NPI is registered as proprietor of the property) are therefore calculated by the FCA at £19,573.77 (being the equity of £52,539.44 less £3,138.67, being the difference between the rent for the property actually paid and the rent that would have been paid for a different property following eviction, and less £29,827, being the costs resulting from the repossession.

118. What the FCA proposes, instead of a restitution order in that amount, is that the property should in due course be sold, and that any net proceeds of sale after repaying the mortgagee and the costs of sale will be paid to the Tsormetsris, together with a refund of the rent of £23,728 of rent paid to NPI. When that will take place is uncertain, and whether the Tsormetsris will continue to pay rent in the meantime is unknown.

(3) Problems with a remedial order to mitigate effect of SRAs

119. While a remedial order is most likely to be appropriate where a defendant has wrongly taken property from a consumer and it can be restored, it is less likely to be an appropriate order if restitution cannot be achieved. That is because s.28(7) of the Act requires restitution to be made if money paid or property transferred is reclaimed. The FCA accepts that s.380 of the Act (remedial orders) should be applied consistently with the regime in ss. 26 and 28. In these SRA cases, restitution cannot be achieved because the SRA individuals are unable to finance the repayment to NPI of the sums that NPI paid their lenders to discharge the security over the property.

120. Each of the Defendants wrongly caused each SRA Individual to enter into an SRA transaction with NPI. As a result of the transaction, each SRA individual did not lose their home (in that they have continued to live in it), nor in a real sense did they lose ownership of their property because (as the FCA acknowledges by its assumed counterfactual) they would have lost ownership of their home anyway, upon repossession and sale by the existing mortgagee. Although a remedial order may be appropriate where the transaction that amounted to a contravention can be "unwound", it is recognised in these cases that that cannot happen at this stage. That is, first, because of the *bona fide* third party rights of NPI's mortgagee; and second, because no SRA individual is in a position to pay off that mortgage, or indeed – as the "price" of having a re-transfer of their property – repay to NPI the amount of their pre-existing debt that NPI discharged, as s.28(7) of the Act in principle requires.

121. What the FCA therefore proposes is that the remedial order will only take effect when each property is sold. To accelerate the time at which the sale takes place, it is proposed that there be an order that a property must be sold when the tenancy agreement ends and the consumer vacates the property, or when the secured loan to NPI is discharged. Thus, in the meantime, each SRA individual will have the ability to continue to live in the property, either paying rent, if they are content to do so, or electing not to be bound by the SRA and not paying rent. If rent is not paid, NPI as landlord will in principle be entitled to seek a possession order, thereby accelerating the time at which the property must be sold. (It does not seem to me that the consumer could both deny NPI's claim as landlord under the tenancy agreement, on the basis that they are not bound by the

agreement, and resist NPI's claim to possession, but I do not need to decide that question.)

122. There seem to me to be a number of difficulties with the remedial order that the FCA seeks:

i) It will not restore to the SRA Individual ownership of their property or provide a right to continue to live in the property (ironically, only the SRA does that, until NPI or its mortgagee claims possession). It only provides for an uncertain amount of money to be paid to the SRA Individual at an uncertain date in the future.

ii) The date at which the payment will be made is very uncertain – the FCA accepts that rent paid should not be repaid until the property is sold, which could therefore be significantly delayed.

iii) The machinery required in the remedial order to ensure that the payment occurs at some stage within a reasonable timescale is quite complicated. As the FCA recognises, it is necessary to impose an obligation on NPI to sell in various circumstances, some of which (e.g. the SRA Individual vacating) may be evident to them, but others of which (e.g. a remortgage by NPI) might not be.

iv) There is an obvious risk that following such an order NPI could seek to extract further equity from the property by not paying its mortgage interest, or by re-letting the property for a premium. Even without such devices, the price obtainable (and so the equity payable to the consumer) might also be affected on a sale following a re-letting to another tenant.

v) The amount of the payment would be dependent on the amount of NPI's debt secured on the property when it is sold and the costs of the sale. In some cases, the amount of the loan was less than or close to the amount of the SRA Individual's existing debt, but in other cases NPI borrowed significantly more than the amount needed to discharge those debts (see at (viii) below). If NPI pays off some of the secured debt, the proposed remedial order would give the SRA Individual the benefit of that prepayment, but it is difficult to see why that should be so. The amount of NPI's debt may also vary in future, depending on whether NPI borrows more or pays less.

vi) To avoid any abuse of the suggested order, it is clear that further restrictions would have to be added, making a remedial order more complex.

vii) The remedial order would also have to take account of the fact that in 4 of the 13 SRA cases, title has not been transferred to NPI, owing (it is assumed) to conveyancing error. When the transfer will be completed by registration is unknown. The suggested remedial order would need to cater for the possibility that NPI did not become registered, adding more complexity.

viii) The original proposal of the FCA did not take account of whether NPI contributed any of its own money to the purchase of the properties, and if so whether some of that went to discharge the SRA Individual's secured debt. In his 11th witness statement dated 13 March 2024, Mr Bulmer set out in tabular form the result of his further investigations in this respect, and the result is that in 5 cases the debt of the

consumer exceeded the amount of NPI's borrowing, with the consequence that NPI did use its own funds, in part, to discharge the SRA Individual's debt. In 7 other cases, however, NPI borrowed more than that debt and so extracted further equity. An adjustment would be needed in each case, as the FCA accepted.

ix) In principle, it is illogical that the amount of the payment to the SRA Individual should depend on the equity that may exist in the property at an unknown future date, many years later than the impugned transaction. This figure depends entirely on the dealings between NPI and its mortgagee, rather than on the equity that was lost by the SRA Individual at the time of the transaction with NPI. Once it is accepted that there needs to be an adjustment for any equity purchased or extracted by NPI at the date of the transaction, it seems more appropriate to focus on the amount of equity available to the SRA Individual at that time. Indeed, it is more logical to focus on that once it is accepted that the transaction cannot be unwound by a remedial order.

x) It seems to me to be wrong in principle that the SRA Individual can recover the equity in the property and be repaid all the rent that they paid to occupy the property. Had the transaction not taken place, the SRA Individual would either have been evicted and had to pay rent for another property, as the FCA acknowledges in its alternative calculation of loss, or (less likely) they may have remortgaged with another lender, paying monthly sums to their mortgagee roughly comparable to the rent paid to NPI. While it is true that s.26(1) of the Act provides that an agreement in contravention of the general prohibition is unenforceable against the consumer, and s.26(2) states that they are entitled to recover money paid or property transferred by them, s.28(7), which must be read together with s.26(1), requires the consumer in those circumstances to make restitution of any money and property received under the agreement.

xi) Under the SRA, the SRA Individual obtained use of the property during the term of the tenancy agreement. Although the utility value of the property cannot literally be returned to NPI, its exchange value could be. It seems to me right in principle that it should be brought into account, as in no circumstances could any of the SRA Individuals have remained in the property, or occupied a different property in the counterfactual world, without paying either mortgage interest or rent. It is notable that no case is made by the FCA that the rents set under the SRAs were unreasonable in amount as rents for the properties in question.

(4) Is a restitution order appropriate instead?

123. Mr Fell submitted that although a restitution order was the FCA's alternative case in relation to the SRA Individuals, it is not an ideal solution in these cases, for the following reasons:

i) the financial consequences of the contraventions are still incomplete, and so it is not possible to quantify precisely the losses that each SRA individuals has incurred at this stage;

ii) an order against NPI for payment of a sum of money would leave the FCA having to enforce against the assets of NPI, which include the properties that are tenanted by the SRA individuals.

124. I am not persuaded by the first argument. Whatever happens from the date of this judgment, the SRA Individuals who are still in possession of their properties have it within their power to avoid further losses – either by ceasing to pay rent, if the amount is considered to be excessive, in which case the consequences may be that they ultimately have to leave the property; or by continuing to pay and remaining as tenant, if they consider that they have a reasonable deal and wish to stay in their homes. Since there is no evidence that those who are paying rents are paying unreasonable sums to NPI, there is no further loss that will be incurred. Any difficulty with the registration of NPI at the Land Registry is most unlikely to have consequences adverse to the SRA Individual.

125. It is true that in 5 cases (Waters, Tsormetsri, Dann, Rameshwar and Moroney) NPI has not yet been registered as proprietor of the properties. It seems more likely than not, however, that these title defects will eventually be resolved and that NPI will be registered, or at least that Together will obtain its security. None of the SRA Individuals is in a position to oppose registration on the ground of the unenforceability of the sale agreement, which would require restitution of the benefits they received. The FCA did not say that it would be wrong to assume that NPI would be registered, and it seems to me appropriate to assume that, by subrogation or otherwise, Together will be able to assert its security.

126. One area of doubt is whether any SRA Individual remains liable for their original debts, as a result of Edward Marshall Solicitors' failure to discharge the existing charges or other debts secured on the property. It is likely that the lenders will be able to look to Edward Marshall to comply with their undertaking, or, if not, to the Solicitors Regulation Authority for compensation, if the purchase monies were not used to discharge those secured debts.

127. If for any reason an SRA Individual remains at risk of debt being enforced against them, that debt should not be deducted in calculating the loss resulting from the SRA transaction. The appropriate way to deal with uncertainty about that position is to stay enforcement of a restitution order to that extent, pending completion of enquiries, and to give the FCA liberty to apply to vary the amount of the order in that SRA Individual's case if it subsequently appears that the debt in question has been discharged.

128. As for the second argument in [123] above, the 10th witness statement of Mr Bulmer dated 8 February 2024 shows that there is substantial equity in each of the SRA properties. They are not the only assets of NPI. If the consequences of the FCA seeking to enforce a restitution order against NPI are that one or more of the SRA properties are sold, or charging orders are registered against their titles, any sale will not overreach the tenancy of the SRA Individual. A sale might even present the SRA Individual with the opportunity to buy the property back. A sale by Together or LendInvest as mortgagee might have priority over the SRA Individual's tenancy – I make no decision as to the priorities between Together or LendInvest and the SRA Individuals, which might arise at a later time – but any enforcement by Together or LendInvest, if it has priority, will not cause additional loss to the SRA Individuals, who would have been evicted by their own mortgagees years previously but for the SRA transaction.

(5) Decision on content of appropriate order

129. For these reasons, despite the able arguments advanced by Mr Fell, I do not consider that making a remedial order relating to the equity in the properties at a future date and the

rent paid by the consumers is the most appropriate order to make in these SRA cases, and I will make a restitution order instead.

130. The starting point for the FCA's assessment of loss is the loss of any equity in the properties at the time of the sale to NPI. This is based on a valuation of the property for Together and the aggregate amount of the SRA Individual's secured debt that was paid off on completion. To that, the FCA then adds the total amount of rent paid to NPI, on the basis that the consumer is entitled to treat the SRA as unenforceable and recover money paid. It then deducts repossession and sale costs that would otherwise have been incurred by the original lender and the costs of alternative accommodation that would have been incurred had there been a repossession instead of the SRA.

131. In my judgment, the loss of equity in the property at the date of the SRA transaction less the costs of repossession and sale that were avoided as a result of the SRA are the correct measure of loss in all these cases, save where there is some additional loss (such as payment of fees) that was also incurred. Although in principle the SRA Individual would be entitled to claim recovery of the property and the rent paid, under s.26 of the Act, no SRA Individual has elected not to perform the SRA (or at least there was no evidence that they have), and they could not do so without giving up the tenancy agreement and making restitution: s.28(7).

132. Similarly, the rent paid could only be recovered if the SRA Individual returned to NPI any money and property received by them under the SRA. That would require them to return the benefit of the tenancy agreement, for which they had been paying the rent. Restitution is mandatory under s.28(7). In those circumstances, I do not accept that the rent paid (which is not alleged to be excessively high) is part of the loss that resulted from the SRA.

133. The justice of this conclusion is impliedly recognised by the FCA, in that although they include the rent paid in their calculation of loss, they provide for deduction from the total losses of the accommodation costs that would have been incurred by the SRA Individuals if the SRA transaction had not occurred. It seems to me that, where the effect of the SRA was that the SRA Individual was able to stay as a tenant of their existing property, the rent payable for that property rather than the rent that might hypothetically have been incurred is the appropriate measure of the benefit that needs to be set against the loss, and that accordingly the amount of rent paid to NPI can simply be omitted from the calculation.

134. Accordingly, save in the case of Sharon Lea, the loss in these SRA cases is the value of the equity at the date of the SRA transaction less the sum of £29,827 for costs of repossession and sale that would have been incurred but for the SRA transaction. (In Sharon Lea's case there is an additional loss of £395 to be added in respect of fees paid directly by her to LPI on 30 March 2019.) The amount of equity is calculated by reference to the value of the property at the date of the SRA transaction and the amount of the individual's debt that was repaid as a result of the transaction. Accordingly, in the case of the Tsormetsris, which I have explained in detail above, the loss is £52,539.44 less £29,827, namely £22,712.44.

135. I set out in the third schedule to this judgment ("the SRA Losses Schedule") below the calculation of the loss in the case of each SRA Individual. In all but three cases, the calculation is straightforward and is based on the evidence of Mr Bulmer, documents that

the FCA has obtained as to the valuation of each property, and documents showing the amount of the SRA Individual's debt discharged on completion of the transaction.

136. The first more complicated case is that of Mark and Louise Moroney. They underwent an RMC re-financing first, and then, when the new loan fell to be repaid, an SRA transaction. However, this was one of the cases where Edward Marshall Solicitors failed to effect the registration of NPI, and Mr and Mrs Moroney remained the registered proprietors and FBSE the mortgagee until FBSE evicted the Moroneys on 12 December 2022, notwithstanding the unregistered sale to NPI on 19 October 2019. As a result, the Moroneys' debt to FBSE was not discharged and now amounts to £761,901.86. The Solicitors Regulation Authority paid the Moroneys compensation of £303,215.35 in respect of Edward Marshall Solicitors' breaches of duty.

137. The redemption sum for the original loan on the Moroneys' property was £117,544.41. The remortgage to FBSE completed on about 12 July 2018, with £176,000 being borrowed from FBSE to cover the redemption sum and LPI's fees and legal costs. By May 2019, the FBSE debt had risen to £201,725.80. By the date of the sale to NPI on 18 October 2019, the FBSE debt was £238,269.51, as specified in its redemption statement for the completion of a £300,000 sale to NPI. None of the sale monies were received by the Moroneys.

138. The FCA provided two different calculations of loss resulting from the RMC transaction, depending on whether in consequence of the SRA transaction a remedial order or a restitution order was made. The loss up to the date of the SRA transaction is therefore the difference between the then existing debt of £238,269.51 and the original debt of £117,544, namely £120,725.10, less £17,500 for the value of occupation of the property from July 2018 to October 2019 and £29,827 for the costs of possession and sale, giving a loss figure of <u>£73,398.10</u>.

139. The loss caused by the SRA cannot be assessed as simply the loss of equity in the property at the date of the SRA because the existing debt to FBSE was not extinguished at that date so as to release equity. The debt remained in place and has continued to attract interest at punitive rates. Although Edward Marshall Solicitors' failure to redeem the FBSE charge was an efficient cause of the loss suffered by the Moroneys after the date of completion, the contraventions of LPI and NPI were also efficient causes of the whole loss occasioned to the Moroneys.

140. Accordingly, in this case, the right assessment of the loss resulting from the SRA transaction is the current debt, £761,901.86, less the debt figure of £238,269.51 already taken into account, less the sum of £303,215.35 received from the Solicitors Regulation Authority as compensation for the failure of Edward Marshall Solicitors to account to FBSE for any of the purchase monies. As compensation has already been paid to the Moroneys for that defalcation, it must be assumed that no further compensation will be provided. A deduction already having been made for the repossession costs in calculating the RMC loss, no further deduction is appropriate here. The total loss resulting from the SRA is accordingly <u>£220,417.00</u>. That loss is in addition to the RMC loss of £73,398.10.

141. The second more complicated case is that of Angela Waters, as in her case her original mortgagee, Elderbridge, has asserted that its charge was not redeemed, and Ms Waters and Elderbridge remain registered as proprietors of the property and the registered charge respectively. In Ms Waters' case, the property was valued at £185,000 and other secured

loans amounting to £64,861.03 were discharged out of the purchase monies, but Elderbridge's secured debt of (at that time) £75,488.52 was not discharged. Accordingly, Ms Waters' loss as things stand is £120,138.97, but that sum will reduce to £44,650.45 if and when it is clear that Ms Waters is no longer liable to Elderbridge for its secured debt. The Solicitors Regulation Authority has confirmed the rejection of a claim for compensation in her case. Enforcement of the additional amount of £75,488.52 will accordingly be stayed until the position in relation to Elderbridge is clear.

142. In the case of the Kershaws, who like the Moroneys had an RMC remortgage first before an SRA, the loss for the RMC has been calculated separately from the SRA loss, with the redemption figure for the RMC being used as the base for calculating the loss of equity resulting from the SRA, to avoid double-counting.

143. In some other cases, the Solicitors Regulation Authority has paid compensation to individuals, and these amounts, which flow from the contraventions, are therefore credited against the amounts of loss resulting from them.

144. In cases where the SRA Individual has not paid rent, or has paid little rent, the SRA Individual is for the time being better off by virtue of not having paid it – which they were entitled not to do. The rent cannot be enforced by NPI against the SRA Individuals: s.26(1) of the Act. Given that the rent is unenforceable, it would be wrong in principle to credit the unpaid rent against the amount of loss, as that would be to require the SRA Individual to bring the unenforceable rental liability into account. It is unnecessary in this judgment to address what consequences non-payment may have for the right to possession or any other remedy of NPI or its mortgagee.

145. I will invite Counsel to address me on interest at the handing down of this judgment, as in the case of the RMC Individuals.

Relief to be granted

146. The FCA seeks a restitution order in relation to each RMC Individual against LPI, T Stevens and D Stevens. I will grant such an order. Save in relation to Baylis and Kreuder to the extent of £42,380, the order is made in respect of the losses suffered by the RMC Individuals, not profits accruing to LPI.

147. In relation to the SRA Individuals, the FCA contends that the restitution order should be made against NPI only, not against LPI or T Stevens and D Stevens, even though LPI contravened the general prohibition in each case and T Stevens and D Stevens were knowingly concerned in all contraventions.

148. The reason for that suggestion is that there are fewer SRA Individuals who have suffered losses, and the assets of NPI appear to be greater than the remaining assets of LPI and the Stevens (see 10th witness statement of Mr Bulmer at paras 10-23). Accordingly, if an order were also made against LPI, or T Stevens and D Stevens, in relation to the SRA Individuals, it could have the effect of diluting the compensation that in due course would be available for distribution to the RMC Individuals. This could benefit the SRA Individuals, but they have prospects of a greater dividend from recovery against NPI.

149. An alternative way of approaching the matter would be to make the restitution order in relation to SRA Individuals against all the Defendants but give directions at a later time about how any recoveries are to be distributed – the FCA accepts that this is a matter on which the court should give directions in due course. However, the FCA is better able to judge which approach is likely to work out most fairly and, if it does not seek a restitution order against LPI, T Stevens or D Stevens in relation to the SRA Individuals, it would not be right for the court to impose one. The Act gives the FCA the primary responsibility of acting in the best interests of consumers.

150. I will therefore make a restitution order against NPI only, as requested, in relation to the losses suffered by the SRA Individuals.

151. There will also be declaratory relief in relation to the SRA transaction involving Toniya Richardson, one of the Original Individuals, against whom declaratory relief was not granted by the Order made following the First Judgment. This will be in accordance with the findings of the Recorder at [146]-[155] of Annexe B to the First Judgment.

152. The injunction granted in para 4 of the Order of the Recorder following the First Judgment will continue and apply also in relation to contraventions that I have found proved in relation to the Additional Individuals. It is agreed that the restraint order of Nugee J dated 22 July 2020, which was continued by para 8 of the Order of the Recorder, will be further continued at least until the consequential matters arising from this judgment have been addressed and a final order made.

ADDITIONAL INDIVIDUALS SCHEDULE

Summary of findings of fact relevant to contraventions in cases of 26 Additional Individuals

Allan Toney

i) Mortgaged property: 153 Milton Street, Northampton NN5 7PF. Mr Toney sole proprietor.

ii) Barclays Bank repossessed property in 2019. Mr Toney told T Stevens on telephone that he needed £50,000 to repay Barclays and spend some money on renovations. Mr Toney intended to resume occupation of his home, with a view to selling it himself later.

iii) T Stevens emailed a legal authority instruction form and a third party authority form. Although there is no signed version of these available, Mr Toney either signed versions or agreed them. He also signed a restriction entry consent form, but did not realise what he was signing.

iv) LPI registered a restriction against the property title on 14.10.19 (now removed).

v) Mr Toney unwittingly enabled LPI to change the address registered for his driving licence and a bank statement account, to show an address other than his residential property.

vi) 4Syte Finance Ltd ("4Syte") sent Mr Toney a loan approval letter in the sum of £103,480. The loan agreement contains a business purposes declaration, but this was false and was the basis on which LPI encouraged 4Syte to lend to Mr Toney. Mr Toney questioned T Stevens about the amount and was told it was the minimum amount of loan he could obtain for him. Another person, Nicola Hicks, was added as joint borrower, at T Stevens' request.

vii) Mr Toney received no advice from the solicitors who were engaged by LPI to do the conveyancing.

viii) T Stevens later told Mr Toney that the debt to Barclays had been paid off. The re-mortgage had completed and 4Syte was registered as first chargee. But nothing from the advance from 4Syte was paid to Mr Toney. After 3 months, an unknown caller told Mr Toney that he owed £106,000 and had to pay it, otherwise they would repossess the property.

ix) On 24.3.21, Mr Toney received an email from D Stevens telling him that he owed £119,352.79. 4Syte proceeded to bring eviction proceedings and Mr Toney was evicted. Nothing from the proceeds of sale has been paid to Mr Toney.

x) The legal authority instruction form and a third party authority form enabled LPI to conduct the re-mortgage transaction on Mr Toney's behalf. LPI thereby (and on the basis of T Stevens' oral agreement) agreed to arrange an RMC and did make arrangements with a view to an RMC, as well as making arrangements for an RMC

to be made. The procurement of the 4Syte loan and no other and the attempt to justify the amount of the loan did in this case amount to advising on that particular RMC.

xi) T Stevens was instrumental in procuring LPI (of which D Stevens is the sole director and shareholder) to contravene the general prohibition in these ways, and D Stevens was personally involved in connection with the repayment of the new loan.

Pasquale Marioni

i) Mortgaged property: 32 Frankland Road, Rickmansworth, WD3 3AU.

ii) The property was mortgaged to Whistletree under 3 separate mortgages, 2 of which fell for repayment in 2017 and 2018. At least one of these loans had been taken for business purposes, but the property was at all times Mr Marioni's home. Mr Marioni tried to sell but was unable to do so, and so could not repay the debt. He found LPI's website.

iii) T Stevens told Mr Marioni that he needed a new loan that would enable him to pay off all his debt, not just the mortgages, so that LPI could take a charge over the property for its fees. He also told him that he would need to provide a different address to be eligible for the loan.

iv) T Stevens sent Mr Marioni by email a legal authority instruction form and a third party authority form, which he signed and sent back. At a meeting 3 weeks later, Mr Marioni also signed two irrevocable fee agreement declarations, a formal instruction and a restriction entry consent form. T Stevens asked Mr Marioni to supply financial documents, which were used to support the lending.

v) A mortgage offer letter came from Aura Finance Ltd ("Aura") for the gross amount of £351,000, for a net loan of £300,267. Mr Marioni did not sign the letter but the loan was completed regardless, on 3.6.19. Aura was registered as first chargee and T Stevens and D Stevens were involved in proving Mr Marioni's identity and getting the lender's interest noted on the property insurance policy.

vi) T Stevens did not respond to a request from Mr Marioni for a breakdown of the fees charged by LPI.

vii) Documents exist relating to an authorised broker called Mortgage World and possible second charge lending, but Mr Marioni did not get any advice from them and no transaction of that kind ensued.

viii) Although Mr Marioni expected to receive some of the new loan, he did not, and when he pursued this with LPI, T Stevens told him that there was no money spare as LPI's fees were £54,870. Edward Marshall Solicitors later paid him a "goodwill" sum of £2,500.

ix) Mr Marioni sold the property in December 2019 and paid £336,954.50 to redeem the Aura mortgage.

x) LPI agreed to arrange an RMC, made arrangements with a view to RMCs and did arrange the RMC with Aura. It is unclear whether LPI advised on RMCs: in my judgment that has not been proved.

Paul Crann

i) Mortgaged property: Cleve Court, Minster Road, Monkton, Ramsgate, CT12 4BA.

ii) Mr Crann had a number of unsecured debts, which were being enforced by bailiffs, and a former business associate had petitioned for his bankruptcy. Mr Crann approached LPI, and T Stevens met him and agreed to help him with a secured loan. He told him that that he would need to give a different address and that LPI would receive a commission for arranging the loan.

iii) Mr Crann signed a FBSE Finance Ltd ("FBSE") short-term finance application form in blank. The completed form contains an address for a different, NPI-owned property with which Mr Crann had no connection, and requested a loan of £105,000. T Stevens completed the form. Mr Crann was unaware of the amount of the loan. He had also signed an irrevocable fee agreement declaration and a restriction entry consent form on 25.5.18 but did not recall being given any explanation of what they were or why he had to sign them.

iv) When the loan completed on 25.9.18, Mr Crann did not receive any money or any documents relating to it.

v) At the end of the loan term, Mr Crann was unable to repay it and had to sell the property in order to redeem the mortgage. At that stage, he realised that a restriction in favour of LPI had been registered against the title. Mr Crann had to pay £58,232.40 to LPI to remove the restriction so that he could sell the property, and then pay FBSE £314,860.50 to redeem the charge.

vi) A letter from Richards Solicitors, LPI's solicitors, dated 22 March 2021, asserting liability under the irrevocable fee agreement declaration, states that LPI went to great lengths to discuss the possible options that Mr Crann had, going forward, and tried various funding sources before it sourced the FBSE lending. If that is right (Mr Crann did not recall it), LPI does not appear to have advised Mr Crann in any real sense, it just decided on and completed the transaction for him. There is no other evidence of advice having been given on a particular RMC.

vii) LPI completed the loan application form, gathered information about Mr Crann's circumstances and finances, arranged the valuation for FBSE and coordinated the provision of necessary information and documents. This was typical of its role in most of these cases. LPI accordingly agreed to arrange an RMC, arranged one and made arrangements with a view to RMCs.

Ashanti Bentil-Dhue

i) Mortgaged property: Flat 6 Tucano Court, Silver Streak Way, Strood, Kent, ME2 2GP.

ii) Ms Bentil-Dhue had received notification of a court repossession hearing when she found LPI. T Stevens contacted her and gathered information about her requirements, over a period of time as those requirements changed, and she entered into a third party authority agreement and a legal authority instruction, both of which she signed on 28.8.18. Later, she signed an irrevocable fee agreement with LPI dated 4.9.18 and a restriction entry consent form.

iii) T Stevens arranged for the valuation of the property, for which Ms Bentil-Dhue paid £347.50, and coordinated the provision of information and documents, including ID documents and proof of address.

iv) Ms Bentil-Dhue states in her witness statement that T Stevens explained to her that LPI would help her find money from a new loan, for a period of 12 months, and then remortgage.

v) T Stevens had contact with Azure Mortgages ("Azure"), an unauthorised broker run by David Donnolly, who emailed Dan Stevens on 4.9.18 with details of a £205,000 loan from Hope Capital. On the same day, FBSE provided a quotation for bridging finance of £123,000 to be secured by a first charge. There was also contact with Soho Wealth.

vi) Ms Bentil-Dhue became uncomfortable with LPI's activities and pulled out of these proposed transactions. Her payment for the valuation was refunded, but she discovered later that LPI had registered a restriction against her property on 5.9.18 and had to pay legal fees of £360 to remove the restriction.

vii) These activities were clearly being carried on by LPI with the end view of Ms Bentil-Dhue entering into an RMC, and liaising with lenders and brokers to obtain quotations amounted to arranging RMCs, even though no RMC was in the event entered into. The preparations went far enough and LPI was instrumental in them. There was also an agreement to arrange RMCs. There is no suggestion that Ms Bentil-Dhue was advised by LPI, however, and in the absence of any steps towards completing a re-mortgage, advice cannot be implied.

Lisa Hopkins and Peter Malcolm

i) Mortgaged property: 15 Burnham Road, Romford, Essex, RM7 7JP.

ii) Ms Hopkins and Mr Malcolm contacted LPI when faced with an eviction hearing and, after providing relevant information to T Stevens, signed a third party authority form and a legal authority instruction form on 24.7.18. On 30.7.18, T Stevens arrived at the property with further forms to sign, which were done in a hurry. These were an irrevocable fee agreement declaration and a restriction entry consent form. Ms Hopkins and Mr Malcolm probably signed them on that occasion, though they were not aware of having done so, and the forms were later completed by LPI.

iii) T Stevens arranged for a lawyer to attend the repossession hearing, buying some extra time in which to re-mortgage. Soho Wealth sent Azure a bridging loan facility terms document on 27.7.18 and T Stevens emailed Azure documents relating to the court proceedings on 31.7.18.

iv) Ms Hopkins paid for a valuation of the property on 20.8.18, which was arranged by LPI.

v) Shortly after this, T Stevens telephoned Ms Hopkins and said that he could not obtain a remortgage owing to a county court debt being registered against the property, and he offered to arrange an SRA with a monthly rent of £1,500 to £1,600. Ms Hopkins declined and had nothing more to do with T Stevens.

vi) When the restriction was discovered, LPI's solicitors told her that she would need to pay £19,124.40 to have it removed. This was paid to LPI out of the proceeds of sale of the property.

vii) The circumstances of this case clearly establish an agreement to arrange RMCs, making arrangements with a view to RMCs and arranging RMCs, the term sheet provided by Soho Wealth indicating that the efforts of LPI would have been causative of lending, had it proceeded. The evidence relied on by the FCA of implied advice is in my judgment insufficient to establish a recommendation of a particular RMC, particularly as T Stevens told Ms Hopkins that a new loan on mortgage could not be obtained.

Phillip and Tracey Greeney

i) Mortgaged property: 2 Whitehouse Crescent, Burham, Rochester, Kent, ME1 3ST.

ii) Prior to an eviction date being set, Mr Greeney contacted LPI and spoke to T Stevens, who said that he would be able to get him a "non-status mortgage" and that he would speak to different lenders and negotiate a good rate. He later confirmed that he was doing so.

iii) Mr and Mrs Greeney signed a legal authority instruction form and a third party authority form, and two days later two different irrevocable fee agreement declarations, one for 5% of valuation and the other for 10% of the gross loan, and a formal instruction authorising LPI to source emergency funding. They must also have signed a restriction application consent form, as a restriction in favour of LPI was registered against the property title.

iv) Mr and Mrs Greeney also signed, at T Stevens' behest, a FBSE short-term finance application in blank, and T Stevens sent it to FBSE. FBSE sent a quotation on 14.8.18 and different terms for a bridging loan on 21.9.18.

v) T Stevens later told them that to get the lending they would have to provide evidence that the property was let, and so T Stevens produced an assured shorthold tenancy agreement, giving a false address for the Greeneys and an unknown tenant, which Mr Greeney signed. The document was false in suggesting that the property was rented out.

vi) LPI arranged a valuation on the property, and Mr Greeney paid LPI directly £1,100 for the valuation fee.

vii) Mr Greeney attended a court hearing with the documents that appeared to show that there would be a re-mortgage.

viii) Thereafter, T Stevens did not contact Mr Greeney again, despite being chased by him. The transaction did not proceed. When the property was sold by the mortgagee, the surplus funds were paid into court. It is unclear whether or how the restriction was removed.

ix) There were therefore here similar agreements and arrangements made as in the cases of other Additional Individuals and Original Individuals with a view to completing an RMC, but which in the event did not eventuate. The oral agreement with T Stevens on behalf of LPI and the signed written agreements amount to agreements to arrange RMCs and arrangements made with a view to RMCs, and what LPI did by acting on the basis of them and sourcing two intended loans from FBSE, on the false basis that the property was tenanted, was an arrangement for RMCs to be made, even though for whatever reason LPI was unable to cause this transaction to complete.

x) There is no sufficient evidence that LPI advised the Greeneys on a particular RMC, or that the term sheets that emerged from FBSE were impliedly recommended to them.

Christine Munden

i) Mortgaged property: 12 Malvern Mews, London NW6 5PT

ii) Threatened with repossession, Ms Munden contacted LPI. T Stevens told her that he would find her a loan and a few days later on 26.3.17 emailed her to say that LPI had been successful in securing a loan with First Stop Fund Management ("First Stop"). This appears to have been obtained through Roy Donnelly Mortgage Services ("Roy Donnelly"), an appointed representative of unauthorised lenders. The lending was to be for 6 months, secured by a first charge.

iii) There is no evidence that LPI introduced Ms Munden to Roy Donnelly with a view to her being given independent advice.

iv) Armed with this document, Ms Munden succeeded in getting a stay of the repossession proceedings. Following the hearing, T Stevens and D Stevens both met Ms Munden and she signed authority forms and the restriction entry consent form.

v) On 2.5.17, T Stevens forwarded to Ms Munden an email from Roy Donnelly asking for more information in connection with two possible bridging lenders.

vi) T Stevens put Ms Munden's house on the market as a "back up strategy" in case the loan did not work out. The loan from First Stop was not accepted by Ms Munden and the property was sold to a private buyer, orchestrated by T Stevens. Ms Munden told the FCA that when the sale completed, £15,000 went to LPI to remove the restriction from the title. This is confirmed by a bank statement.

vii) The evidence in this case is thinner than in others, but there is a detailed file note of a conversation between Ms Munden and the FCA, which sufficiently shows that

LPI agreed with her to arrange RMCs and made arrangements with her and with Roy Donnelly with a view to doing so. The steps that LPA took would have resulted in an RMC but for Ms Munden's decision not to accept First Stop as a lender and to sell the property instead. Accordingly, LPI arranged for RMCs within art. 25A(1) of the RA Order as well as making arrangements with a view to that.

viii) There is no evidence that LPI advised Ms Munden on RMCs: it just obtained documents from Roy Donnelly with a view to, first, staving off the repossession of the property, and then Ms Munden re-mortgaging and LPI earning fees. It is somewhat unrealistic to interpret the forwarding of Roy Donnelly's email as any kind of implicit recommendation of the particular RMC lending that was being offered.

Jahsie Levy and Chevanise Dennis

i) Mortgaged property : 3 Mathews Avenue, London E6 6BU.

ii) Mr Levy and Ms Dennis signed forms to enable LPI to proceed to find what funding alternatives they could to assist them to save their home. These included two versions of an irrevocable fee agreement (for 5% of valuation) and must have included a restriction entry consent form, as a restriction in favour of LPI was and still is registered against the property. There will be a remedial order requiring LPI and D Stevens to apply to the Land Registry to remove this.

iii) Azure had become involved and wrote (possibly to LPI) on 5.4.19 stating that bridging finance had been allocated and that documents were being prepared. On the same day, LPI emailed Mr Levy asking for further proof of ID and address and other information relating to status.

iv) Lending from Grosvenor Funding was confirmed in principle and a Finanta application form was sent by Azure to D Stevens and then by T Stevens to Mr Levy on 12.4.19.

v) Mr Levy decided not to proceed with LPI as Ms Dennis was unwilling to sign a new loan agreement.

vi) Mr Levy told the FCA that he was provided with Richards Solicitors' contact details in the event that he wished to request removal of the restriction, or to find out how much LPI would charge for removal.

vii) In this case, Mr Levy and Ms Dennis clearly agreed with LPI that LPI would arrange RMCs for them and LPI took steps to do so, using Azure as brokers. As such, they clearly made arrangements with a view to RMCs being made and, further, arranged for possible RMCs, which might well have eventuated but for these individuals' decision not to proceed in that way. LPI was instrumental in causing the offers of RMC funding to be made.

viii) Again, there is no evidence that LPI did what could be called recommending a particular RMC or RMCs. LPI just passed borrower details to Azure and passed what Azure could obtain to Mr Levy.

Jean Pierre Jacob

i) Mortgaged property: 279 Wickham Lane, Abbey Wood, London SE2 0NX.

ii) Faced with repossession, Mr Jacob contacted LPI in September 2019 and T Stevens told him that LPI could help. He sent him multiple documents to sign, which he did, but never received copies.

iii) One of these was for Edward Marshall Solicitors to represent him at the repossession hearing, but they did not attend and he had to represent himself.

iv) Other documents signed included an irrevocable fee agreement declaration, a third party authority form and a restriction entry consent form. Although Mr Jacob also needed money for his business, the lending was principally in connection with the debt secured on his home.

v) T Stevens used Azure to procure an offer from FBSE (a first legal charge secured loan) which Mr Jacob received and which was nearing completion, but at a late stage Azure insisted on a condition that he was not resident in the property. Matters did not proceed with FBSE, and eventually Mr Jacob went to an authorised broker, UK Property Finance, for assistance.

vi) The restriction on Mr Jacob's property has been removed.

vii) The agreements made orally and signed in writing with LPI are clearly agreements to arrange RMCs. LPI passed information about Mr Jacob and his needs to Azure which resulted in an offer of a bridging loan, albeit on terms that Mr Jacob could not honestly fulfil. In this case, there was apparently no suggestion made about deceiving FBSE about the lending and so no prospect of securing that loan.

viii) Accordingly, in this case, the causal potency required to establish the arranging for RMCs to be made is absent, as no loan was suitable; however, LPI was making arrangements with a view to RMCs.

ix) There is no evidence that LPI advised Mr Jacob on RMCs, nor is it implicit in what LPI did through Azure in this case.

John Baylis and Elena Kreuder

i) Unmortgaged property: 19 Bromstone Road, Broadstairs, Kent.

ii) This case is unusual in that the threat to the owners' possession of their unmortgaged home came from Mr Baylis's trustee in bankruptcy and that eventually the loss that they suffered was not caused by LPI.

iii) For whatever reason, Mr Baylis and Ms Kreuder considered that LPI might be able to help them with the bankruptcy problem. They spoke to T Stevens who said that he could, and then met them in London.

iv) Mr Baylis and Ms Kreuder signed an emergency funding and property fee sale agreement, a third party authority form, a restriction entry consent form, a loan exit confirmation and two different irrevocable fee agreement declarations, all dated

9.7.19. The restriction on the title was registered in favour of LPI the following day.

v) The intention was to obtain a bridging loan of £230,000 to release Mr Baylis's equity in the jointly owned property, which would be used to seek to annul his bankruptcy. T Stevens then told Mr Baylis that he would need to provide evidence of living at a different address; he provided 38 Beach Road, Whitstable as that address, and Ms Kreuder used that address in her application form.

vi) On 5.9.19, D Stevens had emailed Azure to request a 12-month bridging loan for Mr Baylis and Ms Kreuder. Gemini Finance offered a loan to Ms Kreuder for £347,000 gross (£308,483 net). Mr Baylis thought it too high, and the interest payments unserviceable. A further quotation was obtained from FBSE and Soho Wealth were also involved in considering the proposal.

vii) Mr Baylis and Ms Kreuder then sought assistance from a further individual named Ali Shah (unconnected with LPI), which led to the property being transferred into the name of one Syed Ali Haider. Fraud is alleged. Mr Baylis believes that LPI received about £50,000 from the proceeds of sale of the property to Mr Haider. Documentary records show that Richards Solicitors received a sum of £53,220 from Edward Marshall Solicitors on 8.4.21, the day before the transfer to Mr Haider was registered, of which £42,380 was paid into LPI's bank account on 9.4.21.

viii) There is no doubt that LPI through T Stevens agreed to arrange RMCs and made arrangements, through Azure, with a view to RMCs being made. Whether they arranged RMCs depends on whether what they did had sufficient causal potency in connection with an intended RMC. By carrying out the fact finding and passing it on to Azure, and then seeking to make the (dishonest) arrangements that would persuade the lender to offer to lend, which in this case the lender and borrowers were willing to accept, LPI was in my view making arrangements for an RMC, even though it did not proceed.

ix) There is, however, no evidence to support a case that LPI recommended a particular RMC product, nor is it implicit in their acting as a conduit between Azure and its lenders and Mr Baylis. Although Mr Baylis and Ms Kreuder suffered no loss caused by LPI, LPI still made a profit of £42,380 from their dealings.

Julie Joseph

i) Mortgaged property: 15 Selan Gardens, Hayes, Middlesex, UB4 0EA.

ii) Facing eviction, Ms Joseph contacted LPI to seek assistance with her finances. T Stevens appears on this occasion to have asked for a payment in advance, as Ms Joseph says that she paid over £900 to LPI, though there is no separate evidence to confirm the amount, if any, actually paid.

iii) There is a third party authorisation form and a legal authority instruction form, both signed and dated by Ms Joseph on 24.4.19. The only other signed agreement in evidence is a restriction entry consent form, and on 26.4.19 LPI's restriction was registered.

iv) By 30.4.19, the matter was in the hands of Mr Donnolly at Azure, who was communicating with Gemini and Soho Wealth initially, seeking secondary lending with the first legal charge in favour of the existing lender remaining in place. The response from those lenders was negative, so Bridgecrowd (an authorised lender) was then approached and made an offer to lend £53,000 secured by a second charge. The lending was however not business lending and no advice was given by Bridgecrowd, so it was still an RMC that was in contemplation (i.e. none of the exclusions in art. 61A of the RA Order applies).

v) Although there was no signed written agreement by LPI to assist Ms Joseph with a second secured loan, the legal authority instruction form states that lawyers are given authority to represent her for the re-mortgage or sale of the property and that Mr D R Stevens and Mr T Stevens of LPI are her agents for that purpose. There was therefore an agreement that LPI would act as Ms Joseph's agents in seeking a remortgage, which would be an RMC. The payment of £900 or more was to be consideration for the services that LPI agreed to provide, and the restriction is for the purpose of providing security for LPI's fees. There is therefore agreement to arrange RMCs in this case.

vi) Despite the lack of clear evidence, it is to be inferred that T Stevens referred Ms Joseph's needs to Azure: his taking information from her and supplying it to a broker is making arrangements with a view to RMCs. Bridgecrowd appeared willing to lend to Ms Joseph, so the RMC lending was not unrealistic, and in my view what LPI must have done (consistently with its *modus operandi* in the other cases of the Original Individuals and the Additional Individuals) was arranging for an RMC to be entered into. The fact that it was not, in the event, does not mean that there was no contravention in seeking to arrange it.

vii) There is however no evidence of LPI recommending a particular RMC product. Indeed, it is relatively clear in this case, from the email evidence, that it was very much down to Azure to seek to select and obtain a product, and the lender then sent the offer to the individual in question.

viii) The restriction against the property's title has now been removed.

Michael Ubaka

i) Mortgaged property: 2 Silkfield Road, London, NW9 6QT.

ii) Mr Ubaka was in financial difficulties in August 2019 and facing repossession of the property. He approached LPI and T Stevens persuaded him to seek a re-mortgage rather than a smaller second loan. Mr Ubaka did intend to stay in the property as his residence with his wife.

iii) T Stevens asked Mr Ubaka to sign an irrevocable fee agreement declaration, a restriction entry consent form, a legal authority form and a form authorising LPI to source emergency funding. The restriction was registered on 9.8.19.

iv) LPI assisted in preventing Mr Ubaka's eviction and a new loan offer from FBSE was obtained by Azure. LPI was in communication with Azure about this and instrumental in providing a different address for Mr Ubaka to the lender and a false

tenancy agreement and rent receipt that wrongly suggested that Mr Ubaka was not resident. A valuation was carried out, for which Mr Ubaka paid £699 + VAT. He also had to obtain a new insurance policy on the property, as required by FBSE, costing him £800. The loan was ready by June 2020 but for whatever reason it did not materialise and Mr Ubaka was eventually evicted by his existing lender in June 2022.

v) The property was sold for £520,000. Mr Ubaka received a redemption statement from LPI for about £65,000. None of the sale proceeds reached Mr Ubaka.

vi) Richards Solicitors have confirmed that £63,210 was paid to it out of the sale proceeds to discharge the restriction, which was used to pay the Defendants' legal fees and the balance into LPI's bank account on 7.6.23.

vii) There was clearly an agreement to arrange an RMC and making arrangements with a view to an RMC. LPI was involved as an intermediary between Mr Ubaka and Azure. LPI was arranging for an RMC to be made, within art. 25A(1) of the RA Order, because it was assisting Mr Ubaka to make himself acceptable as a borrower to the lender, by bringing false documents into existence. However, in the event, an RMC was not made.

viii) There is no evidence of any advice or recommendation having been made by LPI and I do not consider that it is implicit in being an intermediary where a broker (unauthorised) is responsible for finding the lender and terms on offer.

Michael Philippou

i) Charged property: 5 Melbourne Avenue, Palmers Green, London N13 4SY.

ii) Mr Philippou was indebted under a business loan and had a court judgment registered as a charging order against the property. He owned two other properties that were rented out but lived in the charged property.

iii) T Stevens met Mr Philippou at the property and discussed financing options with him, including a bridging loan. Mr Philippou told the FCA that he found LPI's charges too high.

iv) Mr Philippou only recalls signing a one-page authority form, but must have signed a restriction entry consent form, as a restriction in favour of LPI was registered against the property on 7.3.19. There also appear to be two irrevocable fee agreement declarations signed by him and his daughter.

v) Azure wrote to LPI stating that they had secured emergency funding. At a meeting with Richards Solicitors, the solicitor gave him the impression that the funds were ready to be lent, but no loan materialised.

vi) Mr Philippou later sold the property privately and believed that his solicitor removed the restriction by paying money to LPI. There is a letter from Richards Solicitors to Mr Philippou's solicitors dated 19.12.19 asking for £43,904.40 to remove the restriction. Mr Philippou offered £10,800, but this was not accepted. In

the event, it appears that the restriction was removed without any payment on or about 22.1.21, so no loss was suffered.

vii) There was therefore clearly an agreement to arrange RMCs and LPI must have made arrangements with a view to RMCs by introducing Mr Philippou's case to Azure. There is however no sufficient evidence in this case that LPI made arrangements for an RMC. What emergency funding had been arranged by Azure, if any, is unclear: no lender is identified. T Stevens' reply dated 25.3.19 to Mr Philippou's email of the same date explained that it was Mr Philippou who was not taking matters forward or committing to the loan and the valuation that would be needed.

viii) There is no sufficient evidence that LPI advised Mr Philippou on particular RMCs: it simply said that it could help him with a bridging loan and in the 25.3.19 email confirmed certain terms of the proposed loan, in answer to Mr Philippou's questions.

Ashley and Adrian Hayes

i) Mortgaged property: 7 Lochmere Close, Erith, Kent, DA8 1EA.

ii) As a result of repossession proceedings of their home, the Hayes contacted LPI after attempts to restructure debt through another person failed. T Stevens told them that he could obtain a new bridging loan to pay off two secured loans and an unconnected bridging loan. LPI assisted with the court proceedings by providing on 30.4.18 an application form for a stay.

iii) An invoice dated 2 February 2018 had charged Mrs Hayes £540 inc VAT for court papers and legal representation, and it was paid on that day by Mr Hayes.

iv) The evidence from the Hayes is limited as to what happened with LPI, but there is one signed irrevocable fee agreement declarations dated 28.4.18 and a restriction entry consent form of the same date.

v) On 30.4.18, Roy Donnelly sent T Stevens confirmation that a loan was ready for lawyers to be instructed and a valuation fee had been paid (after T Stevens chased it up) and a valuation was completed. This was for a bridging loan of £265,312 gross from Together Commercial Finance Ltd ("Together") for a term of 9 months. Together was an appointed representative of another company in the same group, but not itself an authorised lender.

vi) The Hayes were billed £1,482 on 4.5.18 for solicitors, agents' and broker's fees.

vii) Neither the instructions of the Hayes nor the documents show what happened beyond these few details. The loan did not proceed and the property was repossessed, with a shortfall to the existing lenders and no payment to LPI out of proceeds of sale.

viii) The signed agreement and what the Hayes can recall show that T Stevens on behalf of LPI agreed to arrange RMCs and made arrangements with a view to RMCs being made, by referring the Hayes to Roy Donnelly. In this case, there is evidence that

LPI remained involved in seeking to arrange the intended RMC and played a sufficient part to have arranged what would have been an RMC, if it had completed.

ix) There is no evidence to support a case that LPI advised the Hayes on a particular RMC.

Paul and Kerry Connolly

i) Mortgaged property: 35 Hanover Gardens, Ilford, Essex, IG6 2RA.

ii) Mrs Connolly died and her husband had been unaware until 2022 of the arrangements that she had been making with LPI. They had been in arrears with their mortgage payments and Mrs Connolly had been made bankrupt.

iii) On 23.7.18 and 24.7.18, Mrs Connolly signed irrevocable fee agreement declarations, third party authority forms and restriction entry consent forms. The restriction was registered on 6.8.18.

iv) On 10.8.18, Mrs Connolly was invoiced for £6,000 by LPI and paid a total of £3,019 in six instalments.

v) An additional irrevocable fee agreement declaration was signed on 30.8.18.

vi) LPI used Azure and David Donnelly to source a loan. As a result, six lenders issued indicative terms. Two of these (FBSE and Grosvenor) progressed to the instruction of solicitors.

vii) The Grosvenor documents suggest that the loan was for business purposes and that Mrs Connolly had another address, but Mr Connolly had no knowledge of those matters. In the light of other cases, the inference is that this was part of a device by LPI and others to deceive the lenders as to the nature of the borrower and the security offered.

viii) On 7.10.19, LPI issued a redemption statement for £37,024.80, and on 22.4.20 a further redemption statement for £67,654.80, pursuant to the irrevocable fee agreements. These must have been in anticipation of sale or remortgage of the property. They indicated that the restriction would be removed on payment of those sums.

ix) The transaction with lenders sourced through LPI did not proceed, probably because of the complication of Mrs Connolly's bankruptcy. When Mrs Connolly sought to remortgage with another lender, LPI sought a payment of £47,000 for the removal of the restriction.

x) Mr Connolly has agreed terms with his existing lenders and is still in possession. The restriction in favour of LPI is still registered and so a remedial order will be made in this case requiring LPI and D Stevens to cause it to be removed.

xi) There is no doubt in this case that LPI agreed with Mrs Connolly to arrange RMCs and made arrangements with a view to RMCs being made. There was also sufficient done by LPI to assist Azure and Roy Donnelly, in terms of progressing

the intended transaction, for LPI to be found to have arranged for RMCs to be made, even though the transactions did not proceed.

xii) There is no evidence of LPI advising Mrs Connolly on any particular RMC.

Steven and Jane Burrows

i) Mortgaged property: Clover Cottage, 1 Church View, Faringdon, SN7 7TA.

ii) The Burrows got into difficulty in early 2019 with servicing their mortgage with Royal Bank of Scotland, and they approached LPI to source a further loan.

iii) It was probably the intention of the Burrows at the time to finish the extension works at the property and then live in it.

iv) At the initial meeting with T Stevens, on 19.3.19 the Burrows signed a number of documents, at his request, without knowing what was in them, but no copies of these are available. A restriction in favour of LPI was placed on the title to the property on 20.3.19, so a restriction entry consent form was clearly one of them. The likelihood, given LPI's standard approach as evidenced in other cases, is that an irrevocable fee agreement declaration and authority forms were also signed.

v) On 20.3.19, T Stevens sent Mr Burrows an email stating that he would be more than happy to help and was sure that he could source them a deal.

vi) Emails on the FCA's file show that Azure sent a quotation for funding, but for whatever reason (which is obscure) this did not proceed. In April 2019 LPI agreed to remove the restriction. Text messages and instructions from Mr Burrows indicate that Mr David Donnelly of Azure assisted in persuading T Stevens to agree to remove the restriction.

vii) Mr Burrows told the FCA that he sourced another short term loan, finished the extension building works and sold the property in 2020. No relevant loss was suffered by the Burrows from LPI's activities.

viii) There was an agreement made by LPI to arrange an RMC for the Burrows and some arrangements were made (obtaining the necessary factual information and passing this on to Azure) with a view to an RMC, but nothing is known about the terms of the lending that was offered. On balance, I find that LPI did enough to amount to arranging for an RMC, on the basis that what was offered to the Burrows in their circumstances by Azure was probably an RMC.

ix) The FCA accepts that there is no evidence that LPI advised on the RMC in this case.

Dariusz and Alicia Mroczek

i) Mortgaged property: 12 Durbin Road, Chessington, Surrey, KT9 1BU.

ii) The Mroczeks were facing repossession proceedings and approached LPI. T Stevens told them on the telephone that he could help them remortgage the property. They met him and declined his offer of an SRA. They then signed two

irrevocable fee agreement declarations, a restriction entry consent form, a third party authority form and an emergency funding and property fee sale agreement on 30.7.19. A restriction in favour of LPI was registered against the title to the property on 31.7.19.

iii) LPI corresponded with Azure and Bridge Finance Direct, an authorised lender ("Bridge") to arrange lending, which included obtaining the necessary information and documents from the Mroczeks and arranging a valuation. £1,000 was paid for the valuation, but it did not happen. The proposed exit strategy for the Bridge loan was the sale of the property, so the lending would not have been excluded from being an RMC by reason of Bridge being an authorised lender. There is also evidence of an authorised broker, Mortgage World, being involved, but no evidence of any advice being given by them.

iv) Several offers were made, and Azure provided an alternative residential address for the Mroczeks. None of the offers was sufficient to cover the existing debt. Nothing further was heard from LPI at that stage.

v) When, later, the Mroczeks decided to sell the property, they discovered the restriction. They paid LPI £22,995.45 to have it removed.

vi) There is clearly in this case an agreement by LPI to arrange RMCs, arrangements being made by LPI with a view to RMCs, and the taking of steps that would have been causative of an RMC had the Mroczeks been willing to accept the terms offered. Again, there is no evidence of any advice being given on a particular RMC, as opposed to on a remortgage strategy. T Stevens left it to the brokers to come up with a product and he did not advise on what they produced. Even if (which is unclear) T Stevens sent details to Bridge directly, that is not sufficient in itself to amount to a recommendation of whatever product Bridge offered.

James and Frances Williams

i) Mortgaged property: 1 Uplands Way, Minster-on-Sea, Sheerness, ME12 3EF.

ii) Having failed to sell their home in order to pay off the mortgagee and faced with repossession, the Williams decided to seek a bridging loan as an interim measure, while they continued to try to sell. T Stevens said that he would assist them to get a bridging loan.

iii) The Williams signed an irrevocable fee agreement declaration, a restriction entry consent form, a third party authorisation form and a legal authority instruction form. They paid LPI for a valuation (amount £828).

iv) On 20.4.20, T Stevens emailed Mrs Williams and told her that her only option was to seek "emergency finance" and he requested documents in support of an application to lenders. Roy Donnelly were engaged and obtained indicative terms for a loan of £317,410 on 26.4.20, which they sent to LPI (no advice being given to the Williams), and for a loan of £298,000 by HNW Lending Limited ("HNW"), an authorised lender, on 11.6.18. These terms stated that the property was not the primary residence of the Williams but that was untrue. HNW did not advise the Williams and the loan was intended to be repaid by a sale.

v) However, by then, the Williams had obtained a buyer for their property and told T Stevens that they no longer required a loan.

vi) When the property was sold, the restriction was discovered and the Williams had to pay LPI £15,620.40 to release it.

vii) There is clearly an agreement by LPI to arrange RMCs and arrangements made by LPI with a view to RMCs. I consider that sufficient steps were taken by LPI to arrange RMCs to satisfy the causation requirement, as two offers were made that, if completed, would have been RMCs. However, there is no evidence of any advice by LPI on a particular RMC, as previously explained above.

Mark and Zena McKay

i) Mortgaged property: 35 Elstree Road, Bushey Heath, Bushey, WD23 4GH.

ii) Faced with repossession, the McKays approached LPI and T Stevens agreed to arrange a remortgage. There is no signed irrevocable fee agreement declaration but there is a signed restriction entry consent form dated 30 May 2019, and LPI applied the following day to register the restriction against the title to the property.

iii) D Stevens sought a 12-month bridging loan through Azure and the McKays were asked to pay £1,300 to LPI for a valuation. There is no evidence that the valuation was carried out, however.

iv) The McKays sold the property and an application to remove the restriction was made on 31 July 2019.

v) There is sufficient evidence that LPI agreed to arrange RMCs and made arrangements with a view to RMCs. However, it does not appear that any RMC or offered RMC materialised, given the short time between the retainer of LPI and the sale of the property. In this case, therefore, there is no arranging for an RMC to be made or advice on a particular RMC.

Nigel Bidgood

i) Mortgaged property: 44 Arundel Road, Worthing, West Sussex, BN13 3EQ.

ii) In mortgage arrears, Mr Bidgood looked for new funding and found LPI online. He spoke to T Stevens about remortgaging the property and signed an irrevocable fee agreement declaration and a restriction entry consent form on 17.4.19, the day before an eviction was due, and an instruction to source refinancing through brokers to avoid eviction.

iii) LPI used Azure to write a letter dated 17.4.19 stating that funding to remortgage the property had been allocated and underwritten. This was doubtless to produce to the court. However, on the same day Soho Wealth issued to Mr Bidgood indicative facility terms, subject to due diligence and valuation. But in the event Mr Bidgood did not proceed and became embroiled in a dispute with Richards Solicitors about the ineffectiveness of the funding proposal.

iv) The property was eventually repossessed and Richards Solicitors tried to obtain payment for LPI in the sum of £54,720 for removal of the restriction but were told by the existing second lender that there was no surplus. Mr Bidgood suffered no loss resulting from LPI's contraventions.

v) LPI clearly agreed to arrange RMCs and make arrangements through Azure with a view to an RMC being made. No suitable product could be found but LPI nevertheless took sufficient steps to arrange for an RMC to be made. There is no evidence of advice on a particular RMC being given by LPI.

Steve and Dianna Clark

i) Mortgaged Property: 74 Cruikshank Grove, Milton Keynes, MK8 0HG.

ii) The Clarks approached LPI seeking to remortgage their property to pay off existing debts.

iii) They signed two irrevocable fee agreement declarations, a restriction entry consent form, a legal authority instruction form and a third party authority form in favour of LPI on different dates in October 2018.

iv) LPI then sought to arrange finance through Azure. T Stevens provided the details of what was required.

v) Bridgecrowd (a regulated lender) offered a business purposes buy-to-let loan on 4.12.18, on the basis of wrong information provided to them, and Soho Wealth offered indicative terms for a bridging loan on 6.12.18; but those loans did not proceed and the Clarks remortgaged through a different company.

vi) LPI sought to enforce its restriction when the property was sold on 25.9.19 but there were no sufficient funds. No loss was therefore suffered by the Clarks.

vii) There was clearly an agreement to arrange RMCs and arrangements were made with a view to that end. LPI took sufficient steps to seek to bring about an RMC and so arranged for an RMC to be made, though in the event none was.

viii) There is no evidence to support a conclusion that LPI advised on a particular RMC.

David Rogers

i) Mortgaged property: 23 Laurel Manor, Sutton, SM2 5EJ.

ii) Repossession proceedings were brought against Mr Rogers and in February 2018, shortly before an eviction, he contacted LPI and spoke to T Stevens. Mr Rogers signed a number of documents, including: a legal authority instruction form, a third party authorisation form, an irrevocable fee agreement declaration and a restriction entry consent form on 27.2.18.

iii) LPI's restriction was registered on 28 February 2018.

iv) Mr Rogers made payments of £354 and £595 to LPI at or about that time. Mr Rogers discussed with T Stevens possibly selling the property to NPI and there is, oddly, a signed property sale agreement dated 27.2.18.

v) The eviction was stayed on the basis of documents showing an intended bridging loan from Together and the marketing of the property, and alternatively lending sourced by Roy Donnelly, however Mr Rogers wished to remain in the property if he could.

vi) In March 2018, LPI sourced a second loan proposal from KPZ Ltd for £78,680 for 6 months, and a Together loan proposal for lending of £140,310 and £59,630 on first and second charges.

vii) On 22.3.18, Mr Rogers instructed LPI to sell the property. An agreement of sale and purchase with NPI was signed by D Stevens on 21.6.18, following a valuation in the sum of £275,000.

viii) Following a further eviction date being fixed in September 2018, NPI bought the property for £154,000 on 26.11.18. However, NPI has not been registered.

ix) On 22.10.19, RBS instigated possession proceedings and NPI discovered that it had not been registered. The current position is that the property has now been sold (presumably by RBS) and that the surplus proceeds of sale are held by solicitors and LPI's restriction has been removed. Mr Rogers therefore no longer owns the property legally or beneficially, and there may or may not be some part of the residue of the sale proceeds payable to NPI. The terms of the restriction are unenforceable against Mr Rogers personally.

x) In this rather unusual case, therefore, LPI agreed to arrange RMCs and made arrangements with a view to that end, by obtaining and passing the relevant details to Roy Donnelly and KPZ. Given the loan proposals made by KPZ and Together, LPI also arranged for RMCs to be entered into even though in the event no transaction took place.

xi) There is no evidence that LPI advised on particular RMCs.

Andrew and Louise Burt

i) Mortgaged property: 106 Lower Hanham Road, Hanham, Bristol, BS15 8SB.

ii) Mrs Burt contacted LPI and spoke to T Stevens on the telephone. He required her to sign some forms. The Burts did sign two irrevocable fee agreement declarations, a third party authority form, a legal authority instruction form and a restriction entry consent form.

iii) The restriction was registered on 24.8.18.

iv) LPI then used Azure to source lending. The only documentary evidence in this regard is an email from David Donnelly at Azure to LPI saying that he had "sent off … Louise Burt for terms".

v) The Burts are still living in the property and do not claim to have suffered any loss as a result of contact with LPI.

vi) The agreements signed are evidence of an agreement to arrange RMCs and it can be inferred that LPI made arrangements with a view to RMCs when they referred the Burts' case to Azure. However, there is no evidence that any RMC was arranged or that advice was given on a particular RMC.

Anna Mamtsumi Sibeko

i) Mortgaged property: Flat 98, Muschamp Road, Carshalton, Surrey, SM5 2SE.

ii) Ms Sibeko was facing repossession by RBS and rang T Stevens at LPI on 15.5.19. She told him that she wanted to pay off the outstanding mortgage and have £15,000 for rented accommodation for when the property was sold. T Stevens said that he could help her and that he would take 15% of the sale proceeds as his commission.

iii) Ms Sibeko recalls signing forms that gave LPI authority to sell the property and the right to 15% of the sale proceeds, but does not recall signing a restriction entry consent form. She did in fact sign such a form and LPI registered its restriction. She also signed a third party authority form and an irrevocable fee agreement declaration.

iv) LPI managed to delay the repossession by RBS to allow a re-financing. For that purpose, it obtained through Azure terms from Soho Wealth terms for a loan of £232,000 and a letter from Azure stating that an emergency loan would pay off all arrears, interest, costs and secured debt.

v) The proposed lending was not taken any further. After the court hearing, Ms Sibeko did not hear further from LPI. It appears that LPI's interest on this occasion was in being able to sell the property and recover its 15%. As nothing happened, Ms Sibeko looked for a buyer of the property herself.

vi) The property sold in about early August 2019. A completion statement shows that the sale price was £215,000, leaving a surplus after payment of many debts and £12,564.40 to LPI of £3,942.84. Ms Sibeko was therefore in error in telling the FCA that she thought the property sold for only £135,000 as she recalled receiving about £2,000 in cash following the sale.

vii) The evidence in this case suggests that Ms Sibeko was looking to sell, probably realising that she could not afford the property, but that in the meantime she was looking to re-finance to pay off her existing debts and continue living in the property until sale.

viii) LPI clearly agreed to arrange an RMC as well as agreeing to sell the property, and it made some arrangements with a view to an RMC, as evidenced by the referral to Azure. However, it appears that following the successful court hearing, LPI took no further steps towards obtaining a loan for Ms Sibeko and was waiting for the sale of the property, which it had authority to carry out. In these circumstances, I consider that the Soho Wealth indicative terms were only obtained for limited purposes and that in this case LPI did not arrange for an RMC to be entered into

because the causative nexus required does not exist. Neither did LPI advise on a particular RMC.

Serguey Palitsyne

i) Mortgaged property: 85 Globe View, 10 High Timber Street, London EC4V 3PR

ii) Facing eviction on account of mortgage arrears of about £7,000, Mr Palitsyne's son, Anton, who was living in the property, contacted LPI and spoke to T Stevens. Mr Palitsyne, acting by Anton, was not seeking a loan in connection with a business. T Stevens advised Anton that the minimum loan that he could provide was £120,000, and that it should be used to pay off the existing mortgage and arrears.

iii) Mr Palitsyne and Anton signed an irrevocable fee agreement declaration, a restriction entry consent form, a third party authority form and a legal authority form on 5.8.18. The restriction was registered the following day.

iv) T Stevens provided Mr Palitsyne with indicative terms from Soho Wealth and a letter from Azure confirming the availability of funding. At the same time, however, Mr Palitsyne obtained a loan from a friend and paid off the mortgage arrears, with the result that the eviction was cancelled.

v) LPI was informed and on 10.8.18 it issued an invoice for £6,000 in fees. Mr Palitsyne refused to pay and the restriction remains in place. There will therefore be a remedial order requiring LPI and D Stevens to procure the removal of the restriction.

vi) LPI accordingly agreed to arrange RMCs and made arrangements with a view to RMCs. In this case, the intention of LPI was to effect a remortgage, and matters went no further because Mr Palitsyne acted very swiftly to obtain funds from elsewhere. The terms from Soho Wealth were in accordance with what T Stevens had told Mr Palitsyne he would source. In these circumstances, but for Mr Palitsyne's other funding, it is reasonable to suppose that the loan would have proceeded in due course. In those circumstances, LPI did arrange for an RMC within art. 25A(1) of the RA Order.

vii) LPI did not, however, advise on a particular RMC.

Jennifer Bower

i) Mortgaged property: The Old Chapel. Tilford Road, Newstead Village, Nottingham, NG15 0BU.

ii) Ms Bower bought this light industrial property with bridging funding provided by Affirmative Finance Ltd ("Affirmative") with a view to converting it into a residential property for herself and her family. The funding was a regulated product for a residential purchaser.

iii) Owing to delays with the project, Ms Bower could not repay the Affirmative loan and Affirmative started possession proceedings. Ms Bower contacted LPI and T Stevens explained that he could help her to re-finance the property.

iv) Ms Bower signed a full raft of LPI documents, including an irrevocable fee agreement declaration and a restriction entry consent form, and a restriction against the title in favour of LPI was registered on 25.11.19.

v) LPI helped to suspend the eviction proceedings in court with indicative terms from Azure for an unregulated loan. Then T Stevens himself tried to source a loan from Barton Bridging Capital Ltd ("Barton") and Ms Bower signed and dated (29.11.19) but did not complete an application form for a Barton loan. On 9.1.20 he emailed ID documents and the application form to Azure, and on 10.1.20 Azure sent an email referring to LPI and including indicative terms from Barton for a gross loan of £210,000.

vi) LPI arranged for a valuation to be carried out, but when this was produced it was for a much lower figure than Ms Bower required. She had no more contact with LPI.

vii) On 14.2.22 the property was repossessed by Affirmative and sold on 23.2.23. Affirmative was repaid in full and after costs of sale £33,004.02 was paid into court. Affirmative's explanation for this alerted Ms Bower to the presence of the registered restriction. The funds are understood still to be in court.

viii) The terms of the irrevocable fee agreement declaration and the restriction entry consent form are not enforceable by LPI against Ms Bower and LPI therefore has no claim to the monies in court.

ix) It is clear from this that LPI agreed to arrange RMCs, made arrangements with a view to RMCs and arranged for RMCs to be made. LPI actually took the initiative in using Barton as the lender. In these circumstances, it can also be said that, in procuring an offer of lending from Barton, LPI was impliedly recommending to Ms Bower the RMC product that Barton offered.

RMC LOSSES SCHEDULE

Part I

RMC Individual	Fees paid separately to LPI	Fees paid separate-ly to others	Differential loss calculation	Repossess-ion costs	Rental value benefit	Total loss
Moroney			£238,269.51 less £117,544.41 = £120,725.10	£29,827	July 2018-Oct 2019: £17,500	£73,398.10
Sanchez			£615,000 less £173,865.28 and £73,173.30 SRA comp-ensation) = £367,961.42	£29,827	Oct 2019-July 2023: £76,500	£261,634.42
Harrington Thomas			£224,045.40 less £120,949.33 = £103,096.07	£29,827	Apr 2020 to Sept 2020: £7,000	£66,269.07
Bowman			£132,500 less £24,464.31 = £108,035.69	£29,827	Jan 2020-May 2023: £22,200	£56,008.69
Terroni	£34,500 (on sale of property)	£940 (valuat-ion fee)	£537,318.59 less £392,316.01= £145,002.58	£29,827	July 2018-May 2019: £18,000	£132,615.58
Begbaaji			£337,117.50 less £222,329.34 = £114,788.16	£29,827	Apr 2019-Aug 2019: £6,600	£78,361.16
Jackson			£632,379.61 less £266,782.96 and credit of £30,000 from NPI = £335,596.65	£29,827	July-Sept 2019: £3,000	£302,769.65
Alfred	£12,000 (removal of restriction)		£331,697.10 less £89,406.94 = £242,290.16	£29,827	May 2019-June	£192,963.16

					2020: £31,500	
McFarlane			£599,293.87 less £89,739.76 = £509,554.11	£29,827	July 2018-June 2022: £75,200	£404,527.11
Caton			£294,837.88 less £99,014.63 = £195,823.25	£29,827	Feb 2020-Mar 2022: £32,400	£133,596.25
Milone			£294,009.82 less £196,675 = £97,334.82	£29,827	Jan 2019-June 2023: £63,600	£3,907.82
De Souza			£252,973.36 + £114,397.19 less £78,820.62 = £288,549.93	£29,827	Oct 2018-Dec 2021: £46,250	£212,472.93
Hazel		£834 (valuation fee)	£712,403.47 less £208,683.55 = £503,719.92	£29,827	Feb 2020-Feb 2023: £69,000	£405,726.92
Kershaw			£148,267.77 less £64,933.78 = £83,333.99	£29,827	May 2018-Mar 2019: £9,500	£44,006.99
Toney			£232,040.96 less £56,826.87 = £175,214.09	£29,827	July-Nov 2020: £9,066.67	£136,320.42
Marioni			£336,954.50 less £246,473.32 (inc. £2,500 paid to Mr Marioni by LPI's solicitors) = £90,481.18	£29,827	June-Dec 2019: £13,400	£47,254.18
Crann	£58,232.40 (restriction removal)	£800 (valuat-ion fee)	£314,860.50 less £84,000 = £230,860.50	£29,827	Sept 2018-June 2021: £79,750	£180,315.90

Part II

RMC Individual	Fees paid to LPI	Fees paid to others	Total loss
Suluk	£17,804.40 (restriction removal)	£800 (valuation fee)	£18,604.40
Karaman		£2,900 (costs)	£2,900
Cassar	£44,107.37 (restriction removal)	£838.80 (valuation fee)	£44,946.17
Onyema		£699 (valuation fee)	£699
Jardim	£35,366.85 (restriction removal)		£35,366.85
Elliott		£834 (valuation fee)	£834
Colbourne	£22,204 (restriction removal)	£485 (valuation fee)	£22,689
Alexander	£51,712.56 (restriction removal)	£756 (valuation fee)	£52,468.56
Peters		£300 (valuation fee)	£300
Dickens	£74,086.86 (restriction removal)		£74,086.86
Fletcher	£47,000 (restriction removal)		£47,000
Riddell		£1,068	£1,068
Assaf	£197.40 (fees)		£197.40
Bhatti		£480 (valuation fee)	£480

Di Placido		£1,500 (valuation fee and other services)	£1,500
Bentil-Dhue	£360 (restriction removal)		£360
Hopkins and Sussex	£19,124.40 (restriction removal)	£834 (valuation fee)	£19,958.40
Greeney		£1,100 (valuation fee)	£1,100
Sibeko	£12,564.40 (restriction removal)		£12,564.40
Munden	£15,000 (restriction removal)		£15,000
J-P Jacob	£450 (services fee)		£450
Baylis and Kreuder	£42,380 profit received by LPI		£42,380
Hayes	£540 (services fee)		£540
Connolly	£3,019 (services fee)		£3,019
Mroczek	£22,993.45 (restriction removal)	£900 (valuation fee)	£23,893.45
Williams	£15,620 (restriction removal)	£828 (valuation fee)	£16,448
Bower	£414 (services fee)		£414
Ubaka	£69,822 (restriction removal and legal fees)	£838.80	£70,660.80
Rogers	£949 (services fee)		£949

SRA LOSSES SCHEDULE

SRA Individual	Lost equity	Repossession costs	Total loss
Moroney	(total SRA loss) £220,417	(not deducted, as previously deducted from losses resulting from earlier RMC)	£220,417
Lea	£69,774.07	£29,827	£39,947.07 + £395 (see at [134] above) = £40,342.07
Waters	£44,650.45	£29,827	£14,823.45
Dann	£42,414.02	£29,827	£12,587.02
Gillett	£40,756.29	£29,827	£10,929.29
Tsormetsri	£52,539.44	£29,827	£22,712.44
Mitchell	£89,115.32	£29,827	£59,288.32
Edwards	£70,000	£29,827	£40,173
Savage	£71,631.29	£29,827	£41,804.29
Richardson	£108,086.30	£29,827	£78,259.30
Rameshwar	£164,637.09	£29,827	£134,810.09
Addicott	£74,500	£29,827	£44,673
Kershaw	£91,732.23	(not deducted, as previously deducted from losses resulting from earlier RMC)	£91,732.23